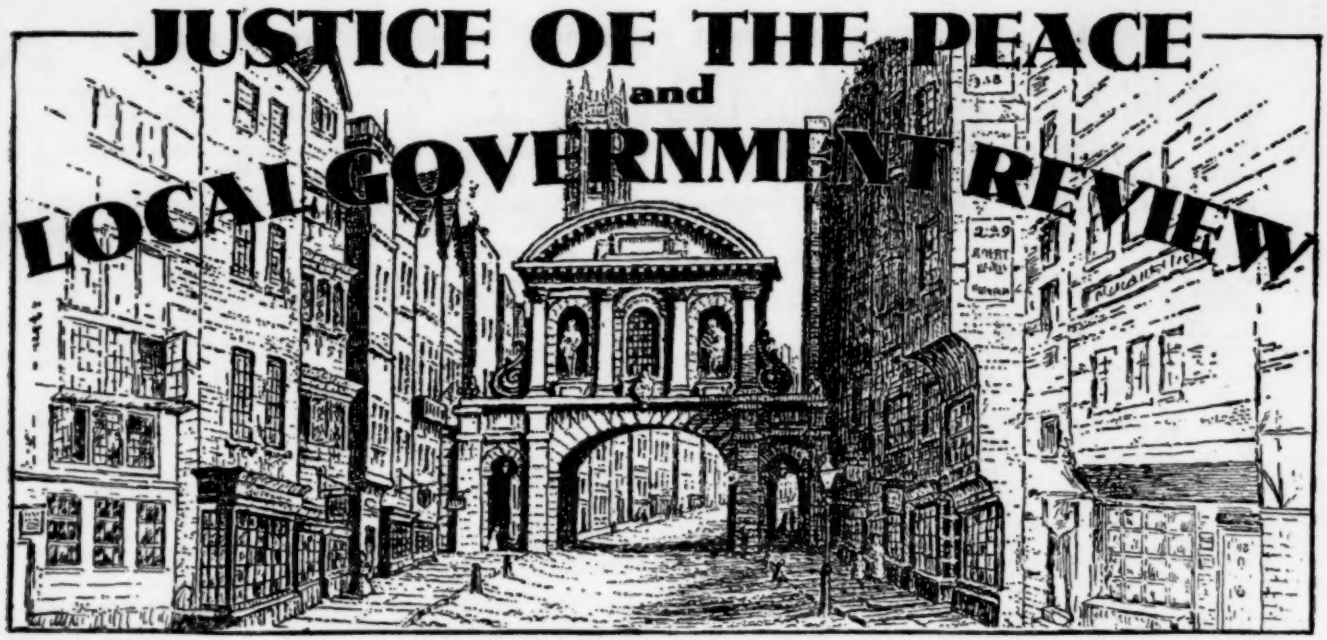

VOL. CXVIII LONDON : SATURDAY, JANUARY 9, 1954 No. 2

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.)

Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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Telephone : CHICHESTER 3637 (P.B.E.) *Telegraphic Address :* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS VACANT

LINCOLNSHIRE : Solicitors with busy practice in market town require admitted or unadmitted conveyancing assistant to work under slight supervision ; salary according to experience. Box No. A.11, Office of this Newspaper.

WANTED

WANTED TO PURCHASE. Partial or complete set of Cox's Criminal Cases required. Write Box No. A.10, Office of this Newspaper.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel. : Boldon 7301. Available day and night.

CITY OF LEICESTER

Magistrates' Courts Committee

A VACANCY occurs in the office of the Clerk to the Justices for a male clerk to take charge of the Collecting Officer's accounts. Previous experience in dealing with the collection and enforcement of payments and of the type of account books kept is essential. The salary will be in accordance with the Higher Clerical Grade of the National Conditions of Service £515—£560 per annum but will be adjusted when the National Scale of Salaries for Justices' Clerks' Assistants is agreed. The post is pensionable and the person appointed will be required to pass a medical examination. Applications, in writing, should be made to reach me before January 23, giving particulars of previous experience and the names of two persons to whom reference can be made.

W. E. BLAKE CARN,
Clerk to the Committee.

Town Hall,
Leicester.

WEST RIDING AREA PROBATION COMMITTEE

Appointment of a Male Probation Officer

APPLICATIONS are invited for the above whole-time appointment.

The officer would be centred at Doncaster and assigned to the Petty Sessional Divisions of Doncaster County Borough, Strafforth and Tickhill Lower and Osgoldcross Lower.

Applicants must be not less than twenty-three nor more than forty years of age except in the case of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949 to 1952, and to the Local Government Superannuation Act, 1947, as amended by the West Riding County Council (General Powers) Act, 1948.

The successful candidate will be required to pass a medical examination.

Application forms may be obtained from the Principal Probation Officer, West Riding Court House, Wakefield.

Applications, together with two recent testimonials, should be enclosed in a sealed envelope marked " Appointment of Probation Officer," and must reach the undersigned not later than January 30, 1954.

BERNARD KENYON,
Clerk to the Area Probation Committee.

Office of the Clerk of the Peace,
County Hall,
Wakefield.

CITY AND COUNTY BOROUGH OF STOKE-ON-TRENT

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a male probation officer for the above city.

The appointment and salary will be subject to the Probation Rules, 1949-1952.

Applications, giving the names of two referees, should reach the undersigned not later than Friday, January 15, 1954.

C. WHITE,
Secretary to the Probation Committee.

35 Huntbach Street,
Hanley,
Stoke-on-Trent.

SMETHWICK AND WEST BROMWICH COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment. The appointment will be subject to the Probation Rules and the salary will be in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of two recent testimonials, to reach me not later than January 23, 1954.

T. CRADDOCK,
Clerk to the Combined Probation Committee.

The Law Courts,
Smethwick.

ISLE OF WIGHT COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a Full-time Male Probation Officer to be responsible for probation work in the above area.

The appointment will be subject to the Probation Rules, 1949 to 1952, and the salary will be in accordance with the scale prescribed by such Rules. The Officer must provide a motor-car or motor cycle, for which an allowance will be paid according to the County Scale for the time being.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with not more than two recent testimonials, must reach the undersigned not later than Saturday, January 23, 1954.

J. G. FARDELL,
Clerk of the Combined Probation Committee.

Market Street,
Ryde, Isle of Wight.

BOROUGH OF COLCHESTER

ASSISTANT wanted in Magistrates' Clerk's office. Applicants should have general magisterial experience, and be competent shorthand-typists capable of taking shorthand notes in court.

Salary in accordance with Clerical Division of National Scale (£470 rising to £515). The appointment is superannuable and the person appointed will be required to pass a medical examination.

Applications, stating age and experience, with copies of two recent testimonials, should be sent to—

M. Webster,
Clerk to the Justices,
Trinity Chambers, Culver Street,
Colchester.

COUNTY BOROUGH OF WALLASEY

Assistant Solicitor

APPLICATIONS are invited from Solicitors for the above appointment in Grade A.P.T. VIII (£760×£25 (3)—£835 per annum).

Application forms, obtainable from the undersigned, should be delivered not later than January 30, 1954.

A. G. HARRISON,
Town Clerk.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

The Jury and the Death Sentence

In an article in our issue of November 21, we expressed our doubts about the expediency of entrusting to a jury the decision whether a person convicted of murder should be sentenced to death or to a less punishment. These doubts have been increased as the result of the weighty opinions expressed in a debate on the subject which took place in the House of Lords on December 16.

Viscount Simon, who introduced the discussion, said that the decision whether a reprieve should be recommended was wisely left in the hands of the Home Secretary and it would be a great mistake to try to interfere with the present system under which the penalty for murder was a death sentence. Earl Jowitt thought the scheme outlined in the report of the Royal Commission would prove unworkable, and there would be great disparity between the decision of juries and that would bring the law into disrepute. The scheme would make the law more flexible but he did not want to make it more flexible. Viscount Waverley emphasized that the function of the jury was to find facts, and that the proposal if adopted would place in the hands of the jury the determination of an issue which was essentially one of judgment. The Lord Chief Justice strongly opposed the recommendation of the Royal Commission, adding that there had been a regrettable increase in the number of disagreements among juries. There might be many more where it was a case of the death sentence or imprisonment for life.

Lord Chorley said that perhaps the most valuable work of the Royal Commission was its searching inquiry into the effect of capital punishment as a deterrent, and he asked that its members be requested to state what were their final views on that difficult subject. The sooner, he said, the death sentence was removed from the country's penal system the better.

Of four peers who had occupied the position of Home Secretary all were opposed to the suggestion that the jury should be given the duty of deciding a question of sentence, except Viscount Templewood, who, while admitting the objections to the proposed change, said he had been surprised to find how wide was the use being made in other countries of some such system. He said he would like to see the proposal tried for a period of, say, five years. He did not believe that many of the objections raised would be found to have a solid foundation.

Attempt to Commit Crime

The precise point at which an intention to commit an offence is translated into an attempt is sometimes difficult to determine. An instance in which it was held that there had been no attempt to steal and the conviction was quashed, although an attempt to break and enter with intent might properly have been charged, was referred to at 118 J.P.N. 1.

A case which went the other way, a conviction of an attempt being upheld, was *R.* v. *Miskell* (*The Times*, December 19), which came before the Courts-Martial Appeal Court.

The appellant was charged with attempting to procure the commission of an act of gross indecency with a boy. There was evidence that the appellant had spoken to the boy in the street, that they went to a café and to a park, and that he promised the boy money if he would meet him next day. The boy kept the appointment and the appellant was arrested. On behalf of the appellant it was submitted that the acts of the appellant were no more than acts of preparation.

Delivering the judgment of the Court, Hilbery, J., said that not all acts which were steps towards the commission of a crime could be regarded as attempts ; some might be too far removed from the commission of the crime.

That the appellant by his conduct and talk had intended to suggest to the boy that they should act indecently together could scarely be doubted in view of a statement to the police by the appellant that " he had no intention of doing what he had suggested."

The law did not punish a man for a guilty intention but for an overt act done as part of the carrying out of that intention. The appellant's intention was undoubtedly to procure an act of gross indecency, and the invitation and meeting were overt acts, and when they were considered in the light of all the circumstances surrounding them it appeared to the Court that such acts could not be said to be incapable of being attempts to procure the boy to commit an act of gross indecency.

Local Courts and Local Knowledge

Reports of public inquiries into questions of abolishing some of the less busy courts and amalgamating divisions show that local feeling is generally divided. Some of the opposition comes from those who not unnaturally dislike the idea of losing something that has existed for long years and who also feel that it is a pity for one more feature of a rural district to disappear. The justices may be expected to wish to preserve the identity of their own division, unless they are satisfied that it is really in the public interest that it should be absorbed.

Among the objections, one comes across the argument that if a division is absorbed into a larger area including towns of some size people will be dealt with by justices having no local knowledge. It is constantly said that one advantage of the lay justice system is that the justices know their district and the people of their district, and are therefore better qualified, from this point of view, than a professional magistrate would be if he sat at a number of courts serving a variety of districts.

Local knowledge is of undoubted value if it is knowledge of localities, the types of people who inhabit them and the customs

and conditions of life of the people generally. There is, however, a kind of local knowledge that is apt to be an embarrassment. A justice who knows that the defendant has the reputation of being a poacher or a thief, or who knows the bad character of a certain family, may find it difficult to rid himself of some bias and to deal with parties on the basis of what he hears in court and nothing else. Of course, it is quite impossible for a magistrate, whether lay or professional, to avoid getting to know a few people who make frequent appearances in court. That is rather different from hearing common talk about them and hearing what other people think of them. At one inquiry it was urged that people were less likely to get themselves into trouble if they knew they would have to appear before justices whom they knew and respected.

Those who advocate amalgamation of divisions and the abolition of some courts base their opinions on considerations of economy, it being contended that some saving in staff and establishment charges would be effected. They add that in most places facilities for travel are sufficient, and that the same parties and witnesses do not often have to make repeated visits to the court, so that real hardship is unlikely.

These are interesting points of view, and it cannot be easy in many instances to decide between them. As to the point that when a court is closed it will mean that some parties and witnesses will have to travel considerable distances instead of attending a local court, there is something in this, but it has to be remembered that nowadays a substantial proportion of cases coming before the magistrates' courts concern people who do not live in the district of that court. This applies largely to motoring offences.

"Special Reasons"

Another Scottish case dealing with the question of "special reasons" for not disqualifying the driver of a motor vehicle who was convicted of driving while drunk is noted in *Butterworths Weekly Law Sheet* as follows: "B convicted by Sheriff-substitute of driving while drunk—disqualification not imposed because: border line case; B's good record; B suffering from ill-health; disqualification not in public interest because of B's Territorial Army duties—appeal by prosecutor—no "special reasons" for not imposing disqualification—*M'Fadyean* v. *Burton*, (1953) Sc.L.T.R. 301 (H.C. of Justiciary).

Obscene Publications

Although it is inevitable that there should be differences of opinion as to what books, pictures or other kinds of publication are obscene, there is really no difference of opinion about some of them, which are obviously intended to appeal to persons of depraved taste and which may corrupt others who happen to see them. Every right minded person wishes to protect young people from this kind of thing.

Recently a member of Parliament put a question to the Home Secretary about the adequacy of the penalties provided by law in respect of indecent publications. The Secretary of State in his reply stated the penalties which could be inflicted upon conviction on indictment or on summary conviction, adding that legislation to increase the powers of punishment did not appear to be necessary.

The member of Parliament, a newspaper report states, thereupon wrote to the Home Secretary suggesting that he should recommend to the Magistrates' Association that prison sentences should be the rule rather than the exception in cases of publication or selling of obscene books or pictures.

If it is the fact that offenders are usually dealt with by fines, sometimes even by small fines, we think there is substance in the suggestion that the gravity of many of these offences is not realized. A person who makes money out of grossly obscene publications is not likely to be deterred from repeating his offence, nor are potential offenders likely to be deterred, by the imposition of fines they can easily pay. The question of imprisonment without the option of a fine needs to be considered. Many people are inclined to attribute the prevalence of sexual offences and sexual perversion, in some part at all events, to the influence of indecent publications and exhibitions. If they are right, magistrates may perhaps be able to do something to deter those who indulge in a discreditable trade.

Dishonest Postmen

Postmen as a class are honest and respectable, and so we expect them to be, for they occupy a position in which trust is essential. A dishonest postman not only causes pecuniary loss to those from whom he diverts remittances, he may also cause serious dislocation and confusion about business transactions. It is therefore right that thefts by postmen should be regarded as always serious. Seventy or eighty years ago such offenders were almost always sent for trial, and most of them went to penal servitude. Today, many are dealt with summarily, and sentences are by comparison lenient.

Naturally, the authorities take precautions when engaging men for this work, and at Christmas, when casual helpers are engaged in considerable numbers, references are required. In spite of this, it occasionally happens that a man of doubtful character gets employment. Such an instance was revealed when one of three men convicted of stealing while employed as casual postmen was stated to have had a previous conviction for theft. The learned magistrate threw out the suggestion that it might be useful if applicants for employment were asked to allow their fingerprints to be taken. The representative of the Post Office, agreeing about the importance of employing only men of good character, said that the question of finger printing would have to be discussed with the union and was a staff matter.

The suggested check has something to commend it, but it is unlikely that it would be readily agreed to by the majority of those concerned. People seem to have a rooted objection to having their fingerprints taken, as something usually associated with criminal charges and as an interference with their rights. In fact, fingerprints might serve a useful purpose in connexion with identification quite apart from criminal matters—in cases of lost memory for example. In criminal proceedings also they are capable of proving innocence and not only guilt.

One other point would need to be considered, and that is the amount of work that would be involved if the fingerprints of all applicants for casual jobs in the Post Office were taken. The number is no doubt large, and the work to be done at Scotland Yard in comparing each with the records there would probably occupy a great deal of police time which could ill be spared.

Mistaken Ideas about Probation

The idea that probation is suitable only in the cases of young offenders, appears to have been at last dispelled, but there are still some people who seem to think every first offender, especially if he is young, may expect leniency. At the Sussex Assizes, Streatfeild, J., made observations on this matter when passing sentence of a year on a young man who pleaded guilty to two charges of housebreaking and asked to have a third taken into consideration. The learned judge referred to the popular belief that used to be entertained that a first offender who was young was entitled to be let off, and said that the public was getting tired of having places broken into and offenders could no longer count on immunity from punishment.

At the same assizes, another young man, who had been put on probation for robbery with violence, and had three weeks later committed a further offence for which he had been dealt with, was brought up and sentenced to nine months for the original offence of robbery. Slade, J., spoke of the good fortune of the prisoner in being put on probation, and of his impudence in so disregarding the probation order as to offend again within three weeks.

The success of probation depends to no small extent on the realization by offenders that they are being given a chance to which no offender is entitled as of right, and that disregard of the obligations imposed by a probation order involves almost certain punishment. The courts strengthen the hands of probation officers and uphold the system when they deal adequately with any breach of requirement or pass a suitable sentence in respect of a further offence committed during the period of probation.

The Landlord and Tenant Bill

This considerable measure has recently made its appearance, having been ordered by the House of Commons to be printed on December 10, 1953. It contains no fewer than sixty-six clauses and nine schedules, and so is plainly a Bill of major size as well as importance in its sphere.

The Bill gives effect to the main proposals in the white paper, Government Policy on Leasehold Property in England and Wales (Cmd. 8713).

The principal object of the new measure is to provide security of tenure for certain tenants occupying *residential* premises under ground leases (Part I) and for tenants occupying *business* premises (Part II).

On the ending of a long tenancy at a low rent, to which Part I of the Bill applies, the tenant is enabled to retain possession as a statutory tenant under the Rent Acts (cl. 6), unless the landlord establishes to the satisfaction of the county court certain specified grounds on which he is entitled to possession.

The expression " long tenancy " means a tenancy granted for a term of years certain exceeding twenty-one years, whether or not subsequently extended. In general " tenancy at a low rent " means a tenancy of which the rent is less than two-thirds of the rateable value of the property comprised in the tenancy.

The specified grounds upon which the landlord may apply to the court for possession of the property include the following :

(*a*) That for re-development purposes after the end of the tenancy the landlord proposes to demolish or reconstruct the whole or a substantial part of the relevant premises ; and

(*b*) grounds corresponding, subject to the necessary modifications, to the grounds on which a court may make an order for possession under the Rent Acts.

The terms upon which the tenant is to retain possession are to be settled by the parties, or if they cannot agree by the county court (cl. 7).

In particular the landlord can carry out " initial repairs " and recover the reasonable cost from the tenant, to the extent that the repairs are required owing to the tenant's failure to fulfil his obligations under the long tenancy.

The rent is to be a reasonable rent for the premises in their condition after the carrying out of any such " initial repairs " (cll. 8 and 9).

Sub-tenants occupying residential premises are, with certain exceptions, afforded the protection of the Rent Acts on the coming to an end of a superior long tenancy at a low rent (cl. 15).

Part II of the Bill provides security of tenure for tenants occupying business premises, with certain exceptions (cll. 23 and 41.)

In this part of the Bill the expression " business " includes a trade profession or employment, and includes any activity carried on by a body of persons whether corporate or unincorporate.

Tenancies to which Part II applies are to be terminable only by the landlord or tenant giving notice in accordance with the provisions of the Bill (*i.e.* in certain circumstances by the tenant making a request for a new tenancy). On the landlord giving such notice (or on the tenant making such a request) the tenant is entitled to apply for a new tenancy to the county court or, where the rateable value of the holding exceeds £500, to the High Court.

The court is required to order the grant of a new tenancy on terms to be settled in accordance with cll. 33-35 unless the landlord establishes to the satisfaction of the court certain specified grounds on which he is entitled to possession (cll. 30-31).

The new term which the court must grant is one not more than fourteen years and must begin at the end of the current tenancy.

Amongst the grounds upon which the landlord may resist the new lease are :

(*a*) Where the tenant has failed to comply with repair and maintenance obligations.

(*b*) Where the tenant has persistently refused to pay the rent.

(*c*) Where the tenant has been in substantial breach of his tenancy obligations.

(*d*) Where the landlord is willing to provide reasonable alternative accommodation.

Under cl. 37 of the Bill, where the landlord successfully opposes an application for a new tenancy, the tenant is, in certain circumstances, entitled to compensation from the landlord on quitting the holding. The amount of the compensation is twice the rateable value of the holding or the rateable value of it according to the circumstances.

Part III of the Bill makes a number of minor amendments to those provisions of the Landlord and Tenant Act, 1927, which relate to compensation for improvements in business premises.

Part IV of the Bill contains miscellaneous provisions including amendment of the Leasehold Property (Repairs) Act, 1938 (cl. 49), and the provisions of the Law of Property Act, 1925, regarding the discharge and modification of restrictive covenants (cl. 50).

It also deals with the jurisdiction of the county court where the lessor refuses licence or consent to various matters in connexion with the tenancy or demised premises, and provides for the determination of tenancies of derelict land. Special provision is made in cl. 53 for the application of the Bill to interests held by the Crown.

The Ambulance Service

The cost of the ambulance service is still causing concern to local authorities, and in some cases it seems that ambulances are being used unnecessarily, but it is difficult for their use to be controlled when this is said to be necessary to enable a person to be conveyed to undergo medical or surgical treatment either as an out-patient or as a hospital in-patient. In the great majority of cases, no doubt, an ambulance is properly used, although when we see them standing about in some towns we wonder whether all of them are neeeded. The attention of the County Councils' Association has been drawn by the Surrey County Council to what seems to be a rather unusual use of an ambulance. A request was received for an ambulance to transport patients to an examinations hall for the purpose of clinical examinations conducted there in connexion with various qualifying and diploma examinations arranged by the Royal

Colleges of Physicians and Surgeons. The request, which was made by the secretary of the board, was supported by an expression of opinion by the Ministry of Health that where, in connexion with the provision of doctors, and hence the training and examination of medical students, it becomes necessary to move a person suffering from illness who cannot reasonably be moved by other means, it is the duty of the local health authority under s. 27 of the National Health Service Act to provide an ambulance for the purpose. Previously, private hire ambulances were used, and it was the mounting cost of such transport which caused the matter to be raised. The county council did not regard the conveyance of patients for such a purpose as falling within their duty under s. 27, and took the matter up with the association, which disagreed with the view of the Ministry that local health authorities are under any statutory obligation in this matter.

Adoption of Children

We have referred previously to some of the evidence which has been submitted to the Adoption of Children Committee appointed by the Home Secretary, and are now able to refer to the views which have been submitted in a memorandum by the Association of Municipal Corporations which, in some respects, accord with those of the County Councils Association. On the question of consents, it is suggested that it should be made clear that, where parental rights have been assumed by a local authority, the giving or withholding of consent should be a matter for the local authority. Perhaps the most important part of adoption arrangements is the appointment of a guardian *ad litem* and the association feel that his position requires strengthening in some respects, particularly as to health records of the prospective adoptive parents being made available to the Court. The memorandum refers in detail to the functions of adoption societies and as to the use which is sometimes made of the local authority in arranging for the visitation of prospective adopters. It is felt that the Adoption Societies Regulations, 1943, should be extended to include further safeguards against children being unsuitably adopted.

On supervision by the welfare authority it is pointed out that there is no provision in the Adoption Act, 1950, for the withdrawal of the notice of intention to apply for an adoption order, and it is suggested that there should be power for this to be terminated. So as to avoid the possibility of unsuitable placements it is suggested that consideration should be given to the enactment of legislation such as s. 2 of the Children and Young Persons (Northern Ireland) Act, 1950, whereby a person may not undertake (whether for reward or otherwise) the nursing and maintenance of any child apart from his parents unless he has obtained the sanction of the welfare authority.

In cases where both parents are the natural parents of the child, although not free to marry when the child was born, the purpose of adoption is to give the child a new birth certificate. It is suggested that this should be made possible in some other way. Another matter which is considered is the placement by a local authority of children for adoption, and particularly of those who are not "in care", on which there seems to be doubt as to whether the necessary power is obtained in existing legislation. It is suggested that any such doubt should be removed. A very large proportion of the children who are legally adopted are illegitimate, and there is a sharp difference of opinion between social workers as to the proper method of dealing with such children ; some take the view that is desirable that every effort should be made to see that the child is adopted as soon as possible. An unmarried mother, acting upon such advice, is urged to give general consent to adoption proceedings immediately after the expiration of six weeks from the birth of the baby. On the other hand, some social workers take the view that the unmarried mother should be encouraged at all costs to retain her baby in her own care. If the latter view is the correct one, it may be argued that the consent of the mother given six weeks after the birth of the child, when her own future may be quite unsettled, can hardly be considered to be freely given. If she alters her mind after the child has been placed with a prospective adopter, hardships and unhappiness may result. It has been found that in some cases the right to withdraw consent has been used quite unscrupulously, and there may be reason to fear that some parents give their written consent for adoption in order that their children may be maintained free of charge in good homes until the parents are ready to receive them back again. The Association suggests that both these difficulties could be dealt with by having the adoption proceedings in two parts. The first part would take place at the commencement of the probationary period of three months, and the second part at the end of the period. It is suggested that at the first hearing all business relating to the consent of the parents should be dealt with, so that once consent is properly given and recorded by the court, no question could arise, except possibly with the permission of the court, and then only if evidence is given of new facts, for the consent to be withdrawn. At this stage, the parents, and in particular unmarried mothers, would have the benefit and the advice of the various officers of the court and the local authority concerned with the well-being of the child. The child would then be placed with the prospective adopters, and at the next hearing, which would be at the conclusion of the probationary period, all the remaining business would be completed.

Delinquency in Saskatchewan

An article in a recent issue of *Canada's Health and Welfare* describes the progress made in dealing with delinquency in Saskatchewan, resulting largely from the destruction by fire of the industrial school five years ago, which was not replaced, and new methods were tried. At that time over 200 children appeared before the Juvenile Court each year, of whom about twenty-five *per cent.* were committed to the school. Recently the number brought before the Court has been less than 100 a year and the committals to the industrial school have averaged twenty-nine. It is considered that this trend reflects a difference in the methods of handling juvenile delinquents rather than a solution of the basic problem. Police officers throughout the province must report every alleged juvenile delinquent to the chief probation officer, who is an officer of the corrections branch of the Department of Social Welfare and Rehabilitation. He is responsible for an examination of the juvenile with a view to assessing the nature of his difficulty and the factors contributing to it. The purpose of the assessment is to supply data that are relevant in making a suitable plan for the disposition and treatment of the child. It is emphasized that probation service implies a case-work service of appropriate intensity to the child and his family, and a liason with others concerned with his welfare. It may include specialized services, such as those of a psychiatric guidance clinic. Where court proceedings are contemplated the judge of the juvenile court must first have all available data concerning the child, together with a written report from the chief probation officer that he considers it to be in the best interests of the child for him to be brought before the court. In some cases there may be what is is called "court-imposed probation", or official probation where delinquency is not established, or where the parents refuse to co-operate, and transfer to a foster home may be considered to be desirable. Payment for foster home care is then the responsibility of the corrections branch.

In some cases there may be committal to an institution. This is not regarded as an ultimate punitive resort but as a specialized method of dealing with certain children, particularly those with extreme difficulty in their contacts with others. The chief probation officer serves as a liason between those working with the family in the community and those working with the child. Each juvenile released from the institution continues under supervision until it is considered that he has readjusted himself to life in the community. The entire service to juveniles on probation is supervised by a Youth Guidance Authority, which was established by statute to ensure sound planning for each juvenile and to guard against his being " overlooked."

THE SERVICE OF RATE SUMMONSES

From correspondence we have received it appears that opinions differ on the way in which summonses to enforce payment of rates should be served. The first question is what statutory provisions regulate the method of service. We start with s. 59 of the Rating and Valuation Act, 1925. This provides, in subs. (1), various ways in which " any notice, demand note, order or other document required or authorized to be sent or served under or for the purposes of this Act may be sent or served." On the authority of *R.* v. *Braithwaite, Ex parte Dowling* (1918) 82 J.P. 242, it is clear that a summons to enforce payment of a rate is one of the documents to which s. 59 (1) applies.

The general provision governing the service of summonses issued by a justice of the peace is to be found in r. 76 (1) of the Magistrates' Courts Rules, 1952, which provides three possible methods of service :

(*a*) by delivering it to person to whom it is directed, or

(*b*) by leaving it for him with some person at his last known or usual place of abode, or

(*c*) by sending it by post in a registered letter addressed to him at his last known or usual place of abode.

The provision for service by method (*c*) is qualified by the provision in r. 76 (2) that if the defendant does not appear a summons so served shall not be treated as served unless it is proved to the court that the summons came to the defendant's knowledge.

The methods of service provided for in s. 59 (1), *supra*, included (*a*) and (*b*) in r. 76. So far as postal service is concerned s. 59 (1) does not require that it be by registered post, and there is no requirement for proof that the summons came to the defendant's knowledge. Section 59 (1) provides also for other methods of service (*e.g.* fixing on premises in certain circumstances), which are not included in r. 76. It is, therefore, most important to decide whether a summons issued by a justice calling upon a defendant to show cause why a distress warrant should not be issued to enforce payment of rates due from him must be served in accordance with r. 76, or whether the wider provisions of s. 59 (1) apply.

We call attention now to s. 128 of the Magistrates' Courts Act, 1952. This makes it clear that justices may state a case when called upon to issue a distress warrant for a rate, and that the provisions about reduction of imprisonment on part payment (s. 67 (2)) and about the admissibility in evidence of employers' statements of wages (s. 80) apply to proceedings in magistrates' courts to enforce payment of rates, but that such proceedings are not otherwise governed by the Magistrates' Courts Act. The inference is that they are special proceedings regulated by other statutory provisions. These one finds in the Distress for Rates Act, 1849, and elsewhere.

Turning now to the Magistrates' Courts Rules we find that these are made in pursuance of powers conferred by s. 15 of the Justices of the Peace Act, 1949, as extended by s. 122 of the Magistrates' Courts Act, 1952. Section 15 (6) of the 1949 Act provided that any Act passed before that Act, in so far as that Act related to matters about which rules might be made under that section, should have effect subject to any rules so made, and might be amended or repealed by the rules accordingly. This subsection was repealed by the Magistrates' Courts Act, 1952, but was re-enacted by s. 122 (3) of that Act. This makes it essential to see whether r. 76, Magistrates' Courts Rules, 1952, amends or repeals the provisions about the service of summonses which are contained in s. 59 (1) of the 1925 Act. The relevant provision is in r. 76 (4), as follows : " any summons or other document served in manner authorized by the preceding provisions of this rule shall, for the purposes of any enactment other than the Act " (*i.e.*, the 1952 Act) " or these rules requiring a summons or other document to be served in any particular manner, be deemed to have been as effectively served as if it had been served in that manner ; *and nothing in this rule shall render invalid the service of a summons or other document in that manner*." To us this means quite clearly that it is lawful to substitute service in accordance with r. 76 for any other method of service, but equally, by virtue of the last part, which we have italicised, a summons served in accordance with any other prescribed method is to be treated as duly served, and in that event nothing in r. 76 is to apply to its service.

It is with respect to this last mentioned matter that a difference of opinion has emerged. One argument is that if a rate summons is served by post regard must be had to the provisions of r. 76 (2) that, in the absence of the defendant, the service of a summons shall not be treated as proved unless it is proved that the summons came to his knowledge. The other argument is that by virtue of the last part of r. 76 (4) nothing in r. 76 is to render invalid the service of a summons which is lawfully effected in pursuance of some other statutory provision. The former argument relies on the fact that r. 76 (2) enacts that the *service shall not be treated as proved* unless it is shown the summons came to the defendant's knowledge and treats this as a matter affecting not the service but the proof of that service. The latter argument, which we prefer, is that whether it is service or proof of service that is spoken of, it is the service which in fact is rendered invalid by applying the provision of r. 76 (2), and therefore that that provision is not to be applied when the service is effected otherwise than in pursuance of r. 76 (1). In support of this argument, we emphasize that r. 76 (2) refers not to service of a summons by post, in general terms, but to " service of a summons in manner authorised by sub-para. (*c*) of the preceding paragraph." If the argument which we support is correct then postal service, in pursuance of s. 59 (1) of the 1925 Act, is governed by the Interpretation Act, 1889, s. 26. Proof of due service, whatever the method used for effecting service, is dealt with in r. 55 of the 1952 Rules.

The other matter which was questioned in the correspondence we refer to at the beginning of this article is whether there is any obligation on the police to serve rate summonses. Here, without going into any details, we think it is sufficient to say that we can find no provision that service of such summonses is in any way a duty which the police can be called upon to perform. If, therefore, the police object to serving such summonses the rating authority must make themselves responsible for the service, but if the police are willing to effect service there is no reason why they should not do so.

REMOVAL OF PERSONS IN NEED OF CARE

Section 47 of the National Assistance Act, 1948, and s. 1 of the National Assistance (Amendment) Act, 1951, provide for the removal from their home to suitable premises of persons in need of care and attention.

They apply to persons who are suffering from grave chronic disease or, being aged, infirm, or physically incapacitated are living in insanitary conditions and are unable to devote to themselves and are not receiving from other persons proper care and attention. Thus, to be covered by the section a person must have a grave chronic disease or must be living in insanitary conditions, being aged, infirm, or physically incapacitated. In addition to one of those four alternatives the person must also be unable to devote to himself and not be receiving from other persons proper care and attention.

The Amendment Act was enacted particularly to provide for urgent cases which cannot await a meeting of the local authority. An order under it can be made by a court or a single justice and be for a period not exceeding three weeks. An order under the Act of 1948 can be for a period not exceeding three months. An order under either Act will provide for the reception of the person in a suitable hospital or other place, and for his detention and maintenance therein.

To bring s. 47 of the Act of 1948 into operation the medical officer of health must certify that action is in the interests of any such person or in the interests of other persons. The interests of other persons are limited to the prevention of injury to their health or serious nuisance. Because of one of these three alternatives the medical officer of health must certify in writing to the authority the necessity of removing the person from his home.

Before making an order the court will require, in proceedings under s. 47, either to hear the person managing the hospital or other place or evidence that seven clear days' notice has been given to him of the application. In the case of an order under the Amendment Act, which can provide for a removal only for a period of not longer than three weeks, the parallel requirement is that the applicant for the order (normally the medical officer of health) must show that the manager of the hospital or other place agrees to accommodate the person and, if this is done, the manager need not be heard in the proceedings or receive notice of them.

Under the Amendment Act the local authority can authorize its medical officer of health generally to make applications for orders. In such applications there will not have been any certificate to the local authority, but a certificate by the medical officer of health and another registered medical practitioner is required that, in their opinion, it is necessary in the interests of the person to remove him without delay. There would seem no need, in order to prove the certificate, for the medical officer and the other practitioner to attend the court (or before the single justice, according to the way the application is made) provided the certificates be produced, for example, by the clerk of the authority if the applications be in his name. But the medical officer of health would almost inevitably be in court (or before the justice) to give evidence that the requirements of the Acts are met in the particular case.

For an order under s. 47 seven days' notice of the application to the person concerned or the person in charge of him must have been given. Although this does not apply to applications under the Amendment Act, the court would no doubt require evidence that some notice had in fact been given.

Section 47 (4) provides for the extension from time to time of the period of an order. This will apply to an order under the Act of 1948 or one under the Amendment Act. There is no requirement that any certificate must be produced by the medical officer of health or other person, or that the manager of the hospital or other place must be heard, but no doubt the court would require evidence that the person concerned had had notice of the application and that the place in which he was detained would continue to be available to him. Further, the court would need evidence that an extension was in the interests of the person concerned, or in the interests of other persons having regard to the prevention of injury to their health or serious nuisance. As closely as possible an application for extension should be on the same lines as an application for an order under s. 47.

There is no provision for making a second order under the Amendment Act while the period of the first order is current. The statutory requirements could obviously not be satisfied in such an application. For the same reason an application for a fresh order under the Act of 1948 could not be supported within the period of the temporary order. That order would need to have lapsed and the person concerned be living in a home of his own again.

The local authority is not specifically empowered to delegate the decision to apply for an order under s. 47 or an extension of an order, as it can for a temporary order under the Amendment Act, but the authority must resolve to apply for the order or extension as the case may be in each individual case. The court would require proof that the local authority had, in fact, authorized the application.

Once an order be made the person concerned can be forcibly arrested and taken to the hospital, and his home can be forcibly entered if he refuses entry for his removal. It seems also that the manager of the hospital or other place cannot refuse admission if the justices order it, although justices would obviously not order admission if the manager proved, for example, that there was no room in the hospital. The Act does not require the manager to give actual evidence that there is room, but merely that he should have had notice of certain proceedings and be heard if he is present. Only in extreme cases would justices make an order without being informed that accommodation was already available. But if they did it would be as binding upon the manager of the hospital or other place as upon the person concerned.

In applications under the Amendment Act to the court or a justice, the court or the justice has the full responsibility of deciding, without knowing that the local authority had first considered the case. In cases for initial orders under the Act of 1948 or for any extension of any order, the court, as well as requiring evidence that the requirements of procedure are met, will require evidence that the matter has been considered by the local authority, and will presumably go over that ground again to see if it can confirm the decision to which the local authority had come and, if so, will decide what order is appropriate in the circumstances.

The responsibility on local authorities and justices in seeking to take persons out of their way of life and impose another on them is onerous. An individual concerned is not a prisoner at the bar. The justices can and ought to have great regard to the local authority's initiation of the proceedings, and the authority ought not to make application on what appears to them merely a *prima facie* case, but should have no doubt that the medical officer's certificate discloses adequate grounds for requiring the removal of the person even against his will (and should be equally free from doubt in extension cases). They have the

responsibility of initiating the court proceedings, and they are not likely to act upon a perfunctorily worded certificate without more information.

The justices have the responsibility of authorizing the use of force as may be necessary. They make the actual order depriving the individual of his liberty, and they are required to be satisfied on oral evidence of the contents of the medical officer's certificate and also of certain other things before making an order. While there appears an obvious separation of function between local authority and justices, any precise analysis of it is theoretical. It is a partnership, in which an element of doubt is ever likely to linger. An order to compel a person, very often old, to leave his home, however wanting it may be, against his will cannot lightly be made by whatever authority, however firmly the desire to do better for him may be held. The public conscience must be assumed to be more in favour of removing him compulsorily to another place than of letting him stay, as he would prefer.

" EPHESUS."

THE SUBSTITUTION OF CLOSING ORDERS FOR DEMOLITION ORDERS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1953

By R. S. BAGSHAW, LL.B.

The ability to make a closing order instead of a demolition order in the circumstances mentioned in s. 10 of the Local Government (Miscellaneous Provisions) Act, 1953, has been welcomed by local authorities as a power of particular value in dealing with blocks of terraced houses. Nevertheless, its use will require thought, in the light of the two conditions limiting the scope of the section to cases where :

(*a*) the authority would be required apart from the section to make a demolition order under s. 11 of the Housing Act, 1936, in respect of a house, and

(*b*) the authority consider it inexpedient to make a demolition order having regard to the effect of the demolition on any other house or building.

It follows from condition (*a*) that the grounds and the procedure for making a closing or demolition order will be as laid down by s. 11 of the Act of 1936, up to the stage referred to in subs. (4) of that section, where it is stated that if no undertaking by the owner with regard to the carrying out of works, etc., is accepted the authority shall forthwith make a demolition order.

A " time and place " notice must still, therefore, be served upon the person having control of the house, the form being prescribed by the Housing Act (Forms of Orders and Notices) Regulations, 1937, as amended by S.R. & O. 1939 No. 30 and S.I. 1950 No. 363. By reason of art. 2 of the Regulations the form of notice in the schedule (No. 4) or a form substantially to the like effect is to be used, the concluding words of the notice reading : " If you fail either (*a*) to notify the council within the period of twenty-one days . . . of your intention to make an offer to carry out works to render the house fit for human habitation, or (*b*) to make an offer as to the future user of the house, before or at the meeting on . . . the council are bound by the Housing Act, 1936, to make a demolition order requiring the house to be vacated and subsequently demolished at your expense. Once the order becomes operative there is no power to rescind or vary it." Pending the prescription by the Minister of Housing and Local Government of a revised form of notice it is suggested that the form should now be qualified to the effect that the local authority may make a closing order if the case is one to which condition (*b*) (above) applies.

The Act of 1953 does not prescribe a form of closing order, nor does it contain power for the Minister to do so. It does not appear competent for him to prescribe a form under s. 176 of the Act of 1936, for this section authorizes the making of regulations prescribing the form of notices and orders to be used under or for the purposes of that Act, and the Act of 1953 is not incorporated with the Housing Act, 1936. Consequently local authorities will have to devise their own forms of closing order, presumably on the basis of the prescribed form of closing order (No. 10) in the schedule to the Regulations, for as will be seen in the following paragraph the form of demolition order (No. 5) is inappropriate.

When a demolition order has been made it operates in three stages :

(i) It becomes operative, if there is no appeal, after twenty-one days. There is, however, provision for an extension of this time in the event of an appeal (Housing Act, 1936, s. 15) ;

(ii) The house must then be vacated within such further period not being less than twenty-eight days as the local authority specify, but this requirement only becomes enforceable (save as to new occupants) when the obligatory notice has been served under s. 155 (Housing Act, 1936, ss. 11 and 155) ;

(iii) The house must be demolished within six weeks after the expiry of period (ii) or the actual vacation of the property (whichever is the later) or such longer period as the local authority specify (Housing Act, 1936, ss. 11 and 13).

A closing order for part of a building becomes operative after twenty-one days (or such extended period as an appeal necessitates) and the subsequent use of the premises in breach of it may render the offender liable to a penalty (Housing Act, 1936, ss. 14 and 15).

In the case of a closing order for a whole house under the Act of 1953, s. 10 (4) applies, *inter alia*, ss. 14 and 15 of the Act of 1936, and the position as to the date of operation is the same as if a closing order had been made in respect of part of the building, the order becoming operative after twenty-one days, subject to the possibility of an extension of time if an appeal is lodged. There is no question of allowing a further period for the vacation of the property, as in the case of a demolition order. In advising a local authority with regard to the new provisions it is therefore essential that the time factor should be remembered in connexion with the rehousing of the tenants, for (owing to post-war housing shortages) it has been the normal practice to defer the enforcement of many demolition orders until alternative accommodation has become available. No such extension of time is permissible when a closing order is made under the Act of 1953, and the use of the premises after the order becomes operative is an offence under s. 14 of the Act of 1936.

(*Note :* This article was prepared before the introduction on November 11 of the Housing Repairs and Rents Bill. So far as the writer can ascertain, the Bill, as drafted, does not affect the foregoing remarks. The proposed power for a local authority to grant a licence for the temporary occupation of premises subject to a demolition or clearance order made prior to the commencement of the Act is not, apparently, to apply where a closing order has been made (cl. 4). Moreover it is open to question whether the power to acquire an individual unfit property for temporary occupation instead of making a demolition order would be applicable once a closing order has been made, as it is only to be available where the authority would be required, apart from the section, to make a demolition order in pursuance of a s. 11 notice (cl. 3). The form of notice itself will, presumably, require further modification.)

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 3.

POULTRY OFFENCES

Weston magistrates considered on October 20 last charges which it was stated were the first of their kind to be heard in the West Country.

A poultry farmer was charged, first, with causing the movement of fifty head of poultry, namely five-week-old pullets, from his premises before the expiration of twenty-eight days from the movement of poultry on to the same premises contrary to art. 7 (1) of the Live Poultry (Restrictions) Order, 1952, and, secondly, with failing to keep a proper record of the movement of all poultry moved on and off his premises, he being a poultry dealer, contrary to art. 18 of the same Order.

The defendant pleaded guilty to the first charge and not guilty to the second charge. Evidence was given for the prosecution that in May of this year defendant received 100 chickens from Yorkshire, and later in the same month, fowl pest was discovered on his premises. When Ministry inspectors called, defendant had only 450 head of poultry, and when asked to account for the movement of his poultry he said he had bought 1,100 head and that he was unable to give any definite account of his sales except for 300 birds. " There are according to the reckoning of the prosecution, about 400 birds adrift which cannot be checked for fowl pest " said a police superintendent conducting the prosecution.

Defendant, in evidence, stated that at no time in the past twelve months had he purchased any poultry at a market, and defending solicitor submitted that defendant was not a poultry dealer within the meaning of the order. " As for the first offence " said the solicitor, " defendant did not know it was an offence to move the poultry and I should not have known either." Defending solicitor also submitted that even if his client had contravened the regulations, the order was so recent and the effect of the regulations so little known, that only nominal penalties should be inflicted.

Defendant was found guilty on the second charge and was fined £40 on the first charge and £10 on the second.

Defendant appealed against the fine of £40 imposed in respect of the first charge, and on appeal, the fine was reduced to £10.

COMMENT

It is surprising to the writer that at a court held in the country it should be suggested by a defending solicitor that the order found to have been contravened in this case was little known, and that the prosecution should have been described by a police superintendent as being one of the first of its kind in the West Country. The order was made so long ago as January, 1952, and had already been in operation for over twleve months at the date of the offence. The order repealed a number of earlier orders, including the Live Poultry (Regulation of Sales, Exhibitions and Movements) Order, 1949, which, in part at any rate, fulfilled a similar function to the order found to have been contravened in this case.

Article 7 (1) of the order prohibits the taking or sending of poultry from any premises on to which there has been a movement of poultry within a period of twenty-eight days, but it is expressly provided that the provision shall not prevent the removal of poultry from a market, or poultry for immediate slaughter.

Article 18 makes it obligatory for every poultry dealer to keep an accurate record of the date and purchase of poultry, the number, species and breed of birds bought, the name and address of the vendor and of the purchaser, if any, and the date and manner of disposal of the birds.

Article 25 provides that an offender against the order is liable to the penalties provided by s. 79 of the Diseases of Animals Act, 1950, and it will be recalled that this section provides for a fine for a first offence of up to £50 or, if the offence is committed with respect to more than ten animals, to a fine not exceeding £5 for each animal.

Article 2 of the order defines a "poultry dealer" as being a person habitually engaged in the business of buying and selling poultry or day-old chicks of poultry but does not include an auctioneer of poultry. The definition clause also provides that a person shall not be deemed to be a poultry dealer by reason only of the fact that he sells, for slaughter, poultry which he has purchased and fed for that purpose.

(The writer is much indebted to Mr. Frank G. Whittuck, clerk to the Weston (Bath) justices, for information in regard to this case.)

R.L.H.

No. 4.

HARD TO BELIEVE

A man was charged on December 12 at Leicester magistrates' court with driving a motor lorry towing a trailer on a road, the wheels of the trailer not being equipped with pneumatic tyres or tyres of a soft elastic material, contrary to reg. 56 of the Motor Vehicles (Construction and Use) Regulations, 1951. A second man was charged with aiding and abetting the first defendant in the commission of the said offence, contrary to s. 35 of the Magistrates' Courts Act, 1952.

For the prosecution, a police constable gave evidence that at 10.50 *p.m.* on a night in October he saw a motor lorry approaching him on a road coming from Market Harborough. The constable said he heard a terrific noise and saw a shower of sparks moving along the road and he then realised that the lorry was towing another vehicle. He stopped the lorry and found that a motor-car being towed by it was running on the brake drums of its front off-side wheel and rear near-side wheel, and it was the brake drums which caused the noise and the sparks. The front off-side wheel had about three inches of spokes left. The second defendant was sitting in the towed vehicle apparently steering it. Severe scoring of the road was found for several miles in the direction whence the vehicles had come, but both defendants said that they had no idea that either of the wheels was missing. The second defendant said that he had felt no effect of losing the wheels. " I would have got out if I had known there were any wheels missing " he said.

At the hearing before the justices, both defendants, who pleaded not guilty, said that they had no idea that the rear vehicle could be classed as a trailer.

The justices found both charges proved and each defendant was fined £3.

COMMENT

Regulation 56 of the Regulations provides that subject to the provisions of reg. 57, all the wheels of a trailer, when the trailer is being drawn on a road, shall be equipped with pneumatic tyres or tyres of soft elastic material. A proviso to reg. 56 excludes from the provisions of the regulation any land implement or agricultural trailer and certain trailers constructed before 1931. Regulation 57 provides that the wheels of a trailer constructed after January, 1953, and drawn by a motor-car, shall be equipped with pneumatic tyres, except works trailers and those designed for use in connexion with street cleansing, etc., or those used in connexion with the maintenance or repair of roads.

(The writer is indebted to Mr. G. E. Bouskell-Wade, clerk to the Leicester justices, for information in regard to this case.) R.L.H.

PENALTIES

West London—December, 1953—no firearms certificate—fined £15. Defendant, a B.B.C. script writer, brought the revolver, a Spanish one, home from North Africa where he served during the war. Later, defendant's house was broken into and the revolver stolen. The Stipendiary Magistrate stated that he always regarded cases of this nature as of the greatest seriousness and in the past had always passed sentences of imprisonment, but as this action did not commend itself to the London Sessions, he no longer did so.

Woolwich—December, 1953—stealing a tablecloth from a postal packet, and destroying twelve letters entrusted to her. Three months' imprisonment. Defendant, a twenty-seven year old temporary postwoman, with a three months' old child, said she became worried about her child whilst delivering letters and as she was in a hurry to take the child to hospital, she tore them up. Defendant had four previous convictions.

Deal—December, 1953—obtaining money by false pretences. Three months' imprisonment. Defendant, a man of thirty, pleaded guilty and asked for five similar cases to be taken into consideration. He had come out of prison five weeks earlier. Defendant ordered a pint of beer and then told the licensee he had left his money elsewhere. He was lent 10*s*., and subsequently another 10*s*. to pay for parking fees for his lorry. He failed to repay and his story proved to be false.

Edinburgh High Court—December, 1953—embezzling £8,300 while employed as a council officer. Four years' imprisonment. Defendant, clerk and finance officer to the council, artificially inflated the bank account of the executive council for twenty-four hour periods during audits by offering cheques. The embezzlement took place over a period of five years. Defendant's previous record was blameless.

Marylebone—December, 1953—jabbing a broken glass into a man's face—four months' imprisonment. Defendant, a woman of twenty-eight, was in a public house with another woman when a man said to her " Hallo, dearie." For no other reason, defendant acted as stated above, causing a deep laceration and severing a facial artery.

REVIEWS

Green's Death Duties. Second (Cumulative) Supplement to Third Edition. By H. W. Hewitt. London: Butterworth & Co. (Publishers) Ltd. Price 5s. net.

This supplement brings *Green* up to date as at August, 1953. It brings in the Finance Act, 1953, and several decisions. The Act of 1953 does not have much effect upon death duties, being concerned with nothing in that field except the acceptance of certain chattels in place of a cash payment. The two most important decisions are both related to the benefit of insurance policies, and are both cases in which the House of Lords reversed the Court of Appeal. In one of them, the Court of Appeal had followed earlier authorities, which themselves supported the practice of more than fifty years, so that the decision of the House of Lords (that the authorities were mistaken and the practice ought not be followed) may have unusually wide repercussions. Other important cases, decided since the first supplement appeared, are, of course, duly noted. There is also a section dealing with recondite changes in death duty, arising from changes of law in the field of town and country planning.

Mr. Hewitt is a member of the Estate Duty Office, and was responsible for the main work. Although care has been taken to make it clear that this is not an "official" publication, it can be taken as certain that all relevant matter, from the point of view of the Inland Revenue, will have been included. The work thus stands as the most valuable guide, not only to the statute law and case law, but to the practice, which is what executors and administrators, and solicitors dealing with the estates of deceased persons, most want to know. The main work and the supplement together are obtainable for 75*s.* net.

Underhill's Law relating to Trusts & Trustees. Tenth Edition. Third Cumulative Supplement. By M. M. Wells. London: Butterworth & Co. (Publishers) Ltd. Price 5s. net.

This is the third cumulative supplement to the tenth edition of *Underhill*, and brings the main work up to date at September, 1953. Its compass is small, twenty-five pages, and its price is low, but it notices several matters of importance. Section 9 of the Emergency Laws (Miscellaneous Provisions) Act, 1953, affects s. 57 of the Trustee Act, 1925, and s. 64 of the Settled Land Act, 1925. It makes permanent a provision enacted temporarily in a General Powers Act of 1943. Apart from this, the developments of the law noticed in the present supplement have been judicial.

Dale v. *Inland Revenue Commissioners* [1953] 2 All E.R. 671, was a decision of the House of Lords upon remuneration of a trustee for his services, which may be welcome to a number of public-spirited persons whose position was in doubt. There is a group of important cases in the Court of Appeal dealing with settled estates and the variation of trusts, and there have been quite a number of new points decided in the Chancery Division. Apart from these new decisions, there have been affirmations by the House of Lords of cases noticed in the previous supplements. Several of the cases noticed have a topical interest, in that they affect the law of charitable trusts, as now falling to be administered in relation to nationalized hospitals. The main work and supplement can be bought together for 77*s.* 6*d.* We imagine that most lawyers, who in the course of practice regularly handle charitable business or that of good-sized trusts, must already have the main work; with the present edition they will be safe against overlooking anything that has come into the law reports since its last edition.

The Queen's Peace. By Sir Carleton Kemp Allen, Q.C., F.B.A. London: Stevens & Sons, Ltd., 119 & 120 Chancery Lane, W.C.2. Price 12s. 6d. net.

From the days of the tithing to the present time is a long road, but we travel it pleasantly, sometimes merrily, in the company of Sir Carleton Kemp Allen, long familiar to us as Dr. C. K. Allen. All along the way he points to everything of interest, sometimes leaving the main road to tarry a little in a by-way, but always returning to the road he set out to follow. This is the road where milestones mark the many stages of development in our system of police and magistracy. The history of the office of justice of the peace, and of the various officers who were their predecessors, or at times their rivals, is a subject of absorbing interest, not only to present day justices but also to those others who are deeply interested in the administration of justice and who like to know how our unique system was built up. The history of the office of constable is hardly less interesting. Although the policeman as we know him was a creation of the nineteenth century, his office is similar in character to that of the peace officer of bygone times. As has often been said, he is one of us, emphatically a civilian, possessed of comparatively few powers beyond those belonging to ordinary members of the public, but trained and paid to do what every able bodied man might be called upon to do. Cromwell's experiment with a military police is described as "short lived and foredoomed, happily the only one which has ever been attempted in this country." Like Mr. Charles Reith, who has written extensively on the British police and democracy, Sir Carleton Allen attaches the utmost importance to our idea of a police system and regards it as too much neglected by historians.

There is some description of offences, now almost forgotten, such as maintenance, champerty, forcible entry, rout and barratry, all of which affected the preservation of the peace in their day. The position of the king as the source of justice, under whose peace the law-abiding enjoyed his protection, is explained, and we see also how the idea of equity really derived in the same way. Through all the changes in the conception of the monarchy and in the officers entrusted with power to act on behalf of the king, the central idea of maintaining the peace chiefly by the exercise of civil rather than military strength, has prevailed. There have been setbacks from time to time, corrupt justices, incompetent and dishonest constables, oppressive officials; but we have emerged with a judiciary, magistracy and police of which we have the right to be proud and for which we ought to be thankful.

The book consists of four lectures delivered by the author, as the Hamlyn Lectures for 1953. The object of the Hamlyn Trust is "the furtherance by lectures or otherwise among the Common People of the United Kingdom of Great Britain and Northern Ireland of the knowledge of the Comparative Jurisprudence and the Ethnology of the chief European countries, including the United Kingdom, and the circumstances of the growth of such jurisprudence to the intent that the Common People of the United Kingdom may realize the privileges which in law and custom they enjoy in comparison with other European Peoples, and realizing and appreciating such privileges may recognize the responsibilities and obligations attaching to them." That object has in these lectures been well and truly served.

Legal Theory. Third Edition. By W. Friedmann. London: Stevens & Sons, Ltd. Price 30s. net.

This is the third edition of a work which has been before the public for ten years and, in its earlier editions, has won wide commendation throughout the English speaking world. The learned author starts with the advantage of holding degrees in law from London, Berlin, and Melbourne universities, as well as being an English barrister and a professor of law at the University of Toronto. This means that he possesses an equipment which comparatively few contemporary legal writers could claim, for keeping abreast of everything important in his own field of studies, in the New World and the Antipodes as well as Europe. In the present edition he has taken account of much newly-published philosophic matter (some, like Maritain, of Thomist origin, some of older derivation), particularly in Latin Europe and Latin America, and of such Russian matter as has been translated in the West. There is also some post-war German material duly taken into account. If the author seems to under-rate Spengler (who was, as he says, an "amateur," but was an unquestionable influence), and even Santayana, he none the less realizes that law cannot be really understood without reference to its philosophic, political, and economic background, and that its daily working is apt to be affected by its ideology. He emphasizes that the contribution of English speaking writers to fundamental legal thought has been notable, and he devotes a chapter to the thesis that divisions between nations, particularly between the continental legal writers and the English legal writers, are less profound than between writers attached to different schools of political and social philosophy. It is gratifying to find that Bryce, T. H. Green and Bosanquet are given weight equivalent to that of continental writers. The new matter has rather redressed the balance, as against the emphasis which in the first edition seemed to be laid on Hegelian dialectics; in the editions produced under war conditions it was more difficult than it has been lately, to keep in touch with everything that was being written. In jurisprudence as in any other field of philosophic study comparisons must be subjective and can be no more than temporary; again and again the author shows this, not merely in deliberate terms but in apparently more casual passages—where it may well be thought in a few years that "resentment blinds judgment," as the author writes in speaking of Le Fur. He is at his weakest in his accounts of the latest constitutional developments in England and the United States, but it may well be that time is not ripe to place these in a philosophic setting. Leaving these topical matters apart, there is in our opinion no doubt that, at this moment, the present work is one of the most important which the tutor can put in the way of his most advanced students, and that it is also one of the most readable for the lawyer who cares also for philosophy.

The Nature of Evidence. By The Rt. Hon. Sir Alfred Bucknill. London : Skeffington & Son, Ltd., Stratford Place, W.1. Price 10s. 6d.

When the author has been a distinguished judge of the High Court and a lord justice of the Court of Appeal, it is not unnatural to assume that a book on evidence is a text book full of learning. This book contains plenty of learning, but it is emphatically not a text book, and the learning is presented in such a way that the ordinary reader will have no difficulty in understanding it. It is a very small book, but it seems to represent the thoughts of a lifetime, thoughts which have become so clear and settled in the mind of the author that he can pass them on to lesser people who are groping for the truth and uncertain what to think or believe.

The book will appeal to lawyers because it is so closely reasoned and so precisely expressed, but it will appeal no less to laymen and women for whom it is also intended. It is pointed out that most people have at times to judge between disputants, may be as teachers, parents, or employers. It is not easy to ascertain the truth unless we have some principles to guide us. At the very outset we need to know what we mean by evidence, not in any narrow sense but in the wider sense in which it can properly be used in everyday affairs. Naturally this leads to some consideration of rules of evidence applied to legal proceedings, civil and criminal. It is, however, in the application of some principles to facts insufficiently appreciated or imperfectly ascertained, that cases often break down, as was pointed out by the late Lord Greene, whom the author quotes.

It is customary to have regard to probability in deciding disputed matters of fact, but, says Sir Alfred, it is dangerous to apply strictly the rules of probability and improbability to human conduct. It is not so much a question of how people would be likely to act in given circumstances, as a question of how a particular person would act. He may act in a totally unexpected way. Circumstantial evidence is capable of proving conclusive, but if there is a missing link in the chain reliance on probability may lead to a wrong conclusion. From his own experience the author relates two remarkable cases, one a serious miscarriage of justice in criminal proceedings, the other the inquiry into the loss of the *Thetis*. The further question of instinct or intuition, and the part it may play in the ascertainment of truth, is seriously considered, and this leads the author to what might be described as some statement of his own philosophy and of the support he has derived from his religious belief.

As an experienced judge in the Divorce Division, it is natural that the author should have something to say about marriage and divorce. Sensitive to the troubles of other people, he would like to spare them some of the pain and embarrassment attached to giving evidence in public, and he suggests the possibility of more hearings *in camera*. He feels also that the law is too strict on the subject of condonation putting an end to a matrimonial offence. The present law makes what might be called a trial period of reconciliation too great a risk to be often taken.

Like many who are entitled to speak with authority, Sir Alfred Bucknill writes modestly, often disclaiming certainty about his conclusions. Yet it is impossible to read this fascinating book without realizing how profoundly he has thought, and how simply he has expressed fundamental truths.

The Trial of Jeannie Donald. Edited by John G. Wilson, B.A., LL.B., Advocate. Notable British Trials Series, Volume 79. London : William Hodge and Company, Limited, 86, Hatton Garden, E.C.1. Price 15s.

Mrs. Donald was tried in Edinburgh in 1934 and convicted of the murder of Helen Priestly, a child eight years of age, in Aberdeen. The details of the crime were horrible, the prisoner having, according to the evidence, inflicted injuries on the little girl's private parts in order to create the impression that she had been outraged by a man unknown, who had then killed her. In fact there was an exhaustive search for a man, the police having been misled by a circumstantial statement made by a boy to the effect that he had seen the child with a man on the fatal afternoon. That statement was completely false, as the boy himself admitted later. Painstaking widespread inquiries by the police, assisted by medical experts, eventually led to the arrest of both Mr. and Mrs. Donald, but Mr. Donald was never committed for trial.

The real interest of this case lies in the way in which the prosecution proved the offence by an irresistible mass of scientific evidence, and in the fact that the prisoner did not give evidence, only one witness being called for the defence, that one being a witness who appeared for the first time at the closing stage of the trial.

Mr. Wilson, in his clear and thoughtful introduction, suggests the possibility that a verdict of manslaughter might have resulted if the prisoner had been willing to give evidence and had told what may have been the truth, namely that, being irritated by the child for some piece of mischief, she had seized her by the neck and shaken her with no intention of inflicting serious injury. The child had an enlarged thymus gland and, it was suggested, doubtless became unconscious, whereupon the prisoner, believing her to be dead, became panic-stricken and inflicted injuries upon what she believed to be the dead body in order to divert suspicion from herself. However, if that was the truth, it was not told and the prisoner was convicted, after only seventeen minutes deliberation by a jury of fifteen. The prisoner was sentenced to death, the sentence was commuted, and after some ten years in prison, where she was a model of good behaviour, she was released on licence, her husband being on the point of death.

The excellent introduction is followed as is usual in this series by as full a report of the whole proceedings as could be obtained from documents, and the book contains interesting photographs of the scene of the crime and of distinguished personalities concerned in the trial.

Six Lectures for Justices. Prepared by the Training Board of the Magistrates' Association. London : The Magistrates' Association. Price 6s.

This small book opens with a commendatory introduction by the Rt. Hon. Lord Simonds, Lord Chancellor, in which he says that he does " not assume responsibility for all the statements in all the lectures." This reviewer, whose daily round is devoted to magistrates' courts, cheerfully casts aside any similar caution. All the statements in all the lectures are accurate and reliable.

The six written lectures in the book are designed to clothe the nakedness of the headings of the " Lecture Course " set out in the Model Scheme for Elementary Training issued from the Lord Chancellor's office in December, 1952. They are of approximately the same length and are entitled (1) The Magistrate and his Office ; (2) Practice and Procedure in Magistrates' Courts ; (3) The Rules of Evidence ; (4) Problems of Punishment and Treatment ; (5) Domestic Proceedings, Affiliation and Bastardy ; and (6) Work out of Court. According to the " Model Scheme," the lectures are recommended to be given by an experienced person, generally a magistrate or a justices' clerk. The written lectures in this book are not, we suppose, intended merely to be read by a new magistrate in substitution for a course of oral lectures ; but, rather, are designed for the assistance of lecturers. As an aid to the preparation of oral lectures, the book will be invaluable : the lecturer will himself import the liveliness of expression and utterance, the anecdotes, the illustrations, and what is needed to make the lectures grip. For this book, good as it is, may be thought to carry conciseness to a fault : the literary style resembling that of *The Times* first leader, every sentence has something important to say, and, as it seems to us, hardly a sentence is superfluous. Is this really a fault ? We have all been moved by the poster showing two large oxen ; the one in the flesh depicted as a foil to the other, suggested by a small bottle bearing the label of a well-known brand of concentrated beef essence. But the perverse among us still find digestive satisfaction in a cut off the joint, with, perhaps, a little mustard.

Daly's Club Law. Fifth Edition. By C. J. Collinge, B.A. (Oxon), a Chief Clerk of the Metropolitan Magistrates' Courts. London : Butterworth & Co. (Publishers) Ltd. Price 18s. 6d. net.

Nowadays so many associations describe themselves as "clubs" ; so many people, for better or worse, find themselves elected to office in these associations ; and, we may add, so many legal pits await the stumbling feet of the unwary, that it is good to gather between the covers of a single book all the law that attaches to them. The lawyer whose practice is largely in magistrates' courts thinks of club law in terms of the registered club and the Licensing Act, 1953 ; this book will remind him that the subject is much wider.

The editor has taken as his model the title " Clubs " in the recently published Volume 5 of the 3rd Edition of *Halsbury's Laws of England*, and we agree with him that there could be no better model. The first half of the book is devoted to a comprehensive and concise statement of the law : the latter half sets out such statutes as are applicable. The comprehensiveness of the work may be judged by the Chapter headings : Nature and Classification of Clubs ; Jurisdiction of the Courts and Expulsion of Members ; Constitution and Internal Arrangements ; Rights and Liabilities of Clubs and Members ; Club Debentures ; Duty, etc., payable by Clubs ; Registration of Clubs ; Sale (the purist would, perhaps, have preferred the word " Supply ") of Intoxicating Liquor in Clubs ; Permitted Hours ; Betting, Gaming and Lotteries in Clubs ; Dissolution of Clubs.

In his preface, the editor mentions that the book is intended to be a guide to laymen as well as to lawyers. It is not easy at the same time to present a technical subject to the two classes of readers, and perhaps more might have been done to achieve the purpose (there *are* laymen who will not find much enlightenment in the statement that a club may be formed of a society " associated for practically any purpose which is not *contra bonos mores* "), and this reviewer recommends that in

future editions some of the statements in the earlier part of the work would be the better for a little amplification; for instance, the important subject of special order of exemption under s. 107 of the Licensing Act, 1953, is given very scant treatment on p. 72. But there is no doubt that the secretary's office of every club, in particular every registered club, would be enlarged by having this work in its bookcase.

Road Traffic Law. Compiled under the direction of James McConnach. Amendments No. 2. Mearns Publications, Majestic Buildings, 7-9 Union Road, Aberdeen. No price stated.

We reviewed the first post-war edition of this useful publication at 116 J.P.N. 557. Amendments bringing the work up to date to May 1, 1953, have now been published. Because of the convenient loose leaf method of binding the amending sheets can be inserted in their proper places, and the reader has then the complete volume with everything in its correct order. The table of contents, the table of cases and the index are all revised and replaced. The page numbering is maintained by the insertion, where necessary, of extra pages numbered, for example, 48A. The Vehicles (Excise) Act, 1949, has various amendments and additional notes, and the Registration and Licensing Regulations, 1953, replace those of 1951. Additional cases are cited in relevant places in the various sections of the Road Traffic Acts and so on; and, so far as we have been able to judge, the reader will find the revised sheets do enable him to refer with confidence to *Road Traffic Law* for relevant information up to the date, 1/5/53, which they bear. This dating of the pages of the book as they are revised is of itself a useful device because it serves constantly to remind users of the book that they must look elsewhere for anything which may have happened since that date.

A.B.C. Guide to the Practice of the Supreme Court. Thirty-seventh Edition. By D. Boland. London: Sweet & Maxwell. Price 30s. net.

This is, perhaps, as useful a work as the practising solicitor or managing clerk can obtain, in the compass of a book which can be carried in the pocket. It gives the essential parts of what is to be found in the *White Book*, to which it duly refers the reader for fuller information and for supporting authorities. Its alphabetical form enables its possessor to turn quickly to the rules of practice on any given subject. Mr. Boland is Clerk of the Lists for the Queen's Bench Division at the Royal Courts of Justice, and is thus writing on a topic of which he has daily experience. The book can be recommended to any member of the legal profession, and indeed there is much in it that might be of use to students. The fact that this is the thirty-seventh edition seems to indicate that our opinion has been generally shared.

The Law of Wills. By R. Cross. Third Edition. London: Stevens & Sons Limited. Price 6s. net.

We have noticed earlier editions of this little book, which is one of Messrs. Stevens' series *This is the Law*. Like others of its kind, it gives everything that the non-legal reader can expect to find, and states it clearly and without burdening the text with the authorities, exceptions, and so forth, which would be expected by the lawyer. The present edition was made necessary by the passing of the Intestates' Estates Act, 1952, and the opportunity has been taken to bring it up to date in other respects. The learned author, who is a solicitor but not in practice, has properly emphasized the desirability of obtaining legal advice when a will is to be made. For the lay reader who wishes to know all about the process, and to contrast it with what will happen if he dies intestate, the book can be recommended—above all, if the advice given to let his will be drawn up by a solicitor is borne in mind.

Social Welfare. By John J. Clarke. London: Sir Isaac Pitman & Sons, Ltd. Price 30s. net.

Mr. J. J. Clarke is one of the most experienced authors of compendious books about English law as it affects the man in the street, and the present work is an abridgment of his "Social Administration." A foreword by Mr. Arthur Greenwood truly states that Mr. Clarke has made peculiarly his own the network of legislation and administration affecting day to day life of the people. Within the compass of some four hundred pages, the book attempts to give an outline of central and local government and the rôle of voluntary organizations, with an account of the structure of the social services, followed by detailed analysis of many types of social service. We confess that the attempt seems to us too ambitious to succeed. National Insurance and National Assistance, Public Health and the National Health Service, Employment Exchanges and the law of factories, would make a book by themselves. Then there are the special provisions for particular groups, such as old people and problem families, young delinquents, and deprived children. There are also chapters upon education and (to cap it all) on housing, town planning, and the distribution of industry. The book is a mine of information, but we cannot avoid the conclusion that the learned author has attempted to give his readers so much that a confused picture is the result.

BOOKS AND PUBLICATIONS RECEIVED

Abstract of Accounts—Administrative County of Kent. Financial Year ended March 31, 1953. J. L. Hampshire, County Treasurer, County Hall, Maidstone. (A booklet which is a brief summary of the above may be obtained for 1*s*.)

The International and Comparative Law Quarterly. July, 1953. Volume 2, Part 3. Price: 10*s*.

The Year Book of The River Boards' Association. 1953.

NEW YEAR HONOURS

PRIVY COUNCILLOR

Heald, Sir Lionel Frederick, Q.C., Attorney-General since 1951. M.P. for Chertsey since 1950.

KNIGHTS BACHELOR

Binns, Arthur Lennon, chief education officer for Lancashire.

Fooks, Raymond Hatherell, chief constable of Lincolnshire.

Hawke, Edward Anthony, chairman, County of London Quarter Sessions.

Hurst, His Honour Judge James Henry Donald, Judge of County Courts.

Manzoni, Herbert John Baptisa, city engineer and surveyor, Birmingham.

Morris, Rhys Hopkin, Q.C., deputy chairman of Ways & Means, House of Commons, since 1951, M.P. for Cardiganshire, 1923-1932, and for Carmarthen since 1945.

Constantine, George Baxandall (Honourable Mr. Justice Constantine), Chief Judge, Sind Chief Court.

Weston, Eric, I.C.S. (retd.), formerly Chief Justice of Punjab High Court of Judicature at Simla.

Bell, Edward Peter Stubbs, Q.C., Colonial Legal Service, Chief Justice, British Guiana.

Crane, Alfred Victor, Colonial Legal Service, Chief Justice, British Honduras.

ORDER OF THE BATH, CIVIL DIVISION

K.C.B.

Kent, Harold Simcox, H.M. Procurator-General and Treasury Solicitor.

C.B.

Brigadier P. D. W. Dunn, Cmmdt., Police College, Ryton-on-Dunsmore.

ORDER OF ST. MICHAEL AND ST. GEORGE

K.C.M.G.

Fitzmaurice, Gerald Gray, Legal Adviser to Foreign Office.

Barrowclough, Harold Eric, Chief Justice of New Zealand.

C.M.G.

K. Vincent-Brown, lately Puisne Judge, Trinidad.

F. J. Carter, Under-Secretary and Clerk of Executive Council, Tasmania.

Mr. Justice R. J. Morton, Puisne Judge of High Court, S. Rhodesia.

ORDER OF THE BRITISH EMPIRE

C.B.E.

O. C. Barnett, Assistant Judge Advocate-General.

C. P. Brutton, Clerk of the Peace for Dorset, and Clerk of the City Council.

W. S. Chevalier, clerk of Metropolitan Water Board.

E. A. Cole, Commander, Metropolitan Police Force.

P. B. Dingle, town clerk, Manchester.

H. E. James, assistant solicitor, Ministry of Agriculture.

Brigadier J. Appleby, Comdr. British S.A. Police, Southern Rhodesia.

A. M. Gauci, Senior Judge, Malta.

O.B.E.

Lt.-Col. M. G. Fleming, officer commanding, British S. Africa Police Reserve, S. Rhodesia.

A. J. Bridgwater, district auditor, Ministry of Housing.

C. E. Butler, chief constable, Grimsby borough police force.

W. A. Hendry, accountant, Office of Receiver for Metropolitan police district.

F. Newton, chief constable, Herefordshire.

F. Richardson, assistant chief constable, Birmingham City Police.

E. R. Spragg, Member Licensing Authority for Public Service Vehicles, Eastern Traffic Area.

M.B.E.

A. J. Burt, higher clerical officer, Met. Police Office.
H. Burt, probation officer, Durham.
F. Calvert, superintendent, Norfolk Constabulary.
W. J. Chapman, chief superintendent, Metropolitan Police.
E. W. Ferrier, detective chief superintendent, City of Edinburgh police.
F. R. Hallett, clerk to Master of Rolls.
P. Hawkins, superintendent, Derbyshire Constabulary, and Commandant, No. 1 District Police Training Centre.
W. E. Henry, town clerk, Coleraine.
H. R. H. Smith, clerk of Egham U.D.C., Surrey.
C. E. Vernon, superintendent, East Riding constabulary.
V. M. Wood, higher executive officer, Office of Director of Public Prosecutions.

ROYAL VICTORIAN ORDER

C.V.O.

Commander L. J. Burt, Metropolitan Police Force.
Commander R. J. Smith, Metropolitan Police Force.

M.V.O. (fifth class)

Superintendent F. Salter, Berkshire Constabulary.

British Empire Medal

J. Carson, constable, Ulster Special Constabulary.
J. C. R. Cochrane, head constable, Royal Ulster constabulary.
F. E. Garland, inspector, Southampton Borough Police Force.
H. J. Grewcock, civilian instructor, H.M. Borstal Institution, Portland.
H. Griffiths, sergeant, Mid-Wales Constabulary.
S. E. Peck, chief inspector, Metropolitan Police.

KING'S POLICE AND FIRE SERVICES MEDAL

Sir Henry Studdy, chief constable, West Riding of Yorkshire Constabulary.
W. J. Price, chief constable, Cardiff city police force.
P. Foster, chief constable, Wigan Borough Police Force.
A. E. Godden, chief constable, Wakefield City Police Force.
H. Young, commander, Metropolitan Police.
A. Reay, assistant chief constable, Durham County Constabulary.
C. N. F. Lindsay, chief superintendent, Lancs. Constabulary.
A. F. Stacey, superintendent, Bristol City Police Force.
W. E. Deacon, chief superintendent, Kent County Constabulary.
F. J. Deedman, superintendent, Metropolitan Police.
L. A. Watson, superintendent, Metropolitan Police.

ROYAL VICTORIAN MEDAL (Silver)

Police-Sergeant C. W. Cook, Berkshire Constabulary.
A. C. R. Christopher, Berkshire Constabulary.
Police-constable W. Fuller, Metropolitan Police.
Police-constable C. Groombridge, Metropolitan Police.
Detective-constable L. J. Watts, Norfolk Constabulary.

PERSONALIA

APPOINTMENTS

Mr. Thomas Mercer Backhouse has succeeded the late Judge Caporn as County Court Judge of Circuit 18 (Nottingham, Doncaster, etc.).

Mr. John Lovegrove Waldron, an assistant chief constable of Lancashire, on the approval of the Home Secretary, succeeds Cdr. the Hon. Humphrey Legge as chief constable of Berkshire. Mr. Waldron entered Hendon in 1934, and for eight years served in the Metropolitan Police. In 1943 he was seconded to the colonial office, and for three years was deputy inspector general of the Ceylon C.I.D. during the reorganization of the Ceylon police. Returning to the Metropolitan Police as a chief inspector, he was at No. 4 Traffic and Transport District Headquarters for almost two years before going to Lancashire.

Chief Inspector John T. Cookson has been promoted superintendent and appointed deputy chief constable of Northampton. Mr. Cookson entered the police in 1927, and is a civil defence specialist.

Mr. T. L. Duffy, deputy town clerk of Rugby, has succeeded to the clerkship on the resignation of Mr. D. E. Biart.

Mr. D. A. Tranah, LL.B., deputy town clerk of Boston, has been appointed deputy town clerk of Eastleigh. Mr. Tranah was at Gillingham, before going to Boston as an assistant solicitor.

RETIREMENTS

Sir Reginald Hills, Recorder of Winchester since 1925, has retired. Sir Reginald was called to the Bar by the Inner Temple in 1903.

Mr. J. Brock Allon, town clerk and clerk of the peace at Wolverhampton, has retired after 25 years' service. He saw the promotion of the Wolverhampton Corporation Act in 1932, and has always played a prominent part in the borough's affairs. Chairman of the Law Committee of A.M.C., he is also president of the Society of Clerks of the Peace and of the Society of Town Clerks, and president of the Wolverhampton Law Society. Mr. Brock Allon was distinguished with the O.B.E. in 1951.

Inspector W. M. Griffiths has retired from the Merthyr Borough Police after 30 years' service.

OBITUARY

Dr. H. C. Gutteridge, Q.C., Emeritus Professor of Comparative Law in the University of Cambridge, has died at the age of 77. Called by the Middle Temple in 1900, Dr. Gutteridge took silk in 1930 and became a Bencher of his Inn in 1936. In 1919 he was the first occupant of the Sir Ernest Cassel Chair of Industrial and Commercial Law at the London School of Economics and Political Science, which was the first full-time legal teaching post in London University; Dr. Gutteridge led the subsequent development of the Faculty, which he represented on the Senate from 1924 to 1930. In the latter year he returned to Cambridge as Reader in Comparative Law. Four years later the post was converted to a Professorship expressly for him, and he there remained until his retirement in 1941. He was British delegate at several conferences on international law, an honorary doctor of Lyon and Grenoble, and an associate of the Institute of International Law. Besides many articles and essays, he published a monograph on Bankers' Commercial Credits.

Mr. John Norman Bailey, who recently retired from the firm of Chancery Lane solicitors he had joined in 1902, has died at the age of 77.

Mr. Arthur Brooke Turner has died in his sixty-seventh year. A partner in a Tring firm of solicitors, he was clerk to the U.D.C. from 1927 to 1933.

Mr. William James Davey, who was Chief Constable of Bridgwater from 1909 to 1922, has died in his eighty-sixth year. Mr. Davey was the last survivor of his post, which was merged with the Somerset Constabulary thirteen years ago.

Mr. John C. Babbington, an East Riding solicitor, has died in practice in his seventy-third year. Mr. Babbington acted for thirty years for Capt. J. B. Harrison Broadley, who was one of the largest landowners in England.

Lt.-Col. A. J. Marigold, T.D., senior probation officer for the Oxfordshire Combined Probation Area, died suddenly on December 16 in his sixty-second year. Appointed probation officer at Oxford in 1924, Lt.-Col. Marigold acted as agent for the local branch of the Discharged Prisoners' Aid Society.

Mr. Thomas Moore, who retired from the Gateshead police in 1937, has died at the age of 77. Mr. Moore had 38 years' service, and retired in the rank of superintendent.

EMPLOYMENT OF CHILDREN

By J. A. CÆSAR

Although s. 107 of the Children and Young Persons Act, 1933, defines "child" as meaning "a person under the age of fourteen years," s. 58 of the Education Act, 1944, expressly provides that any person who, for the purposes of the 1944 Act, "is not . . . over compulsory school age" shall, "for the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, . . . be deemed to be a child within the meaning of that enactment".

It follows, therefore, by virtue of ss. 35 and 38 of the 1944 Act and s. 8 of the Education Act, 1946, that, for our present

purpose, a child is a person who has not attained the age of fifteen years, or, in the case of "a registered pupil at a special school," sixteen years; and, if such age is attained during a school term, such person, if a registered pupil at the school in question, continues to be a "child" until the end of that term (subject whereto, a person attains a specified age on the day preceding his birthday—*Re Shurey, Savory* v. *Shurey* (1918) 1 Ch. 263).

Section 18 of the 1933 Act (as amended by the 1944 Act and the Education (Miscellaneous Provisions) Act, 1948) imposes a total prohibition on the employment of children who have not attained the age of thirteen years, but the local [education] authority could, by a byelaw made under subs. (2) of that section, *relax* this prohibition to a limited extent in respect of "employment . . . by . . . parents or guardians in light agricultural or horticultural work".

Employment of children is further prohibited by s. 18 (*a*) before the close of school hours on any day on which the child is required to attend school, (*b*) before 6 *a.m.* or after 8 *p.m.* on any day, (*c*) for more than two hours on any day on which the child is required to attend school, (*d*) for more than two hours on any Sunday, (*e*) on work involving the lifting, carrying or moving of anything so heavy as to be likely to cause injury to the child.

Byelaws made by the local [education] authority under s. 18 (2) may, however, *relax* the prohibition referred to in (*a*) above by permitting employment (subject to compliance with (*b*) to (*e*), and subject, also, as regards children under thirteen years of age, to what is said in the third paragraph of this article) for "not more than one hour before the commencement of school hours" on any day on which the child is required to attend school—a typical byelaw provides that "a child who has attained the age of thirteen years may be employed on school days between the hours of 7 *a.m.* and 8 *a.m.* in the delivery of milk, meat and newspapers," and, having regard to the statutory prohibitions referred to in (*b*) and (*c*) in the preceding paragraph of this article, may further provide that "any child who is employed as aforesaid shall not be employed for more than one hour between the hours of 5 *p.m.* and 7 *p.m.*"

The statutory prohibitions above referred to may, moreover, be *strengthened* by byelaws under s. 18 (2) which can "prohibit absolutely the employment of children in any specified occupation," or can limit still further the statutory "permitted" hours of employment, or can make even the "permitted" employments subject to certain conditions additional to the statutory conditions, and so on; subs. (3) of s. 18 does, however, provide that the prohibitions referred to in (*b*) and (*c*) above, and nothing in any byelaw made under that section, shall "prevent a child from taking part in an entertainment under and in accordance with the provisions of a licence granted and in force" under the provisions of Part II of the 1933 Act.

Typical byelaws to these ends may, *e.g.*, totally prohibit employment "as a window cleaner" or "on any Sunday" or "on the day following a day during which the child has taken part in an entertainment duly licensed" under Part II of the 1933 Act, and may, as regards "permitted" employments, require, *e.g.*, that the name of the employer, the address of his premises, the nature of the employment, and the name of the child employed, must first be "registered" and "approved of" by the local [education] authority, and so on. (As to the "statutory" notices to be given to the local education authority in respect of the employment of children, *see e.g.*, s. 45 of the 1944 Act.)

The 1933 Act, moreover, imposes certain prohibitions and restrictions on the taking part, by "children," in entertainments (s. 22), and on the taking part, by "persons under sixteen," in performances endangering life or limb (s. 23), and on the training of "children under sixteen" for performances of a dangerous nature (s. 24), and on "persons under eighteen" going abroad for the purpose of performing for profit (s. 25), and on the employment of "young persons" and "persons under sixteen" in street trading (s. 20).

In this last connexion it is interesting to note that the expression "street trading" includes "the hawking of newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe-blacking and other like occupations carried on in streets or public places" (s. 30), and that, although to sell from a stall in a street where a market is held is "street trading" (*Vann* v. *Eatough* (1935) 154 L.T. 109), the employment of a child to call for orders and supply goods from a van in the course of normal trade between a shop-keeper and his customers is not (*Stratford Co-operative Society Ltd.* v. *East Ham Corporation* [1915] 2 K.B. 70)—it should also be remembered that s. 30 of the 1933 Act further provides that "a person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour," and that, in consequence, the existence of a "master and servant" relationship between "employer" and "child" is not essential (*Morgan* v. *Parr* [1921] 2 K.B. 379; *Sweet* v. *Williams* (1922) 128 L.T. 379).

Before leaving the 1933 Act, it will be noted that s. 19 empowers a local [education] authority to make byelaws with respect to the employment of persons under eighteen other than children; the Young Persons (Employment) Act, 1938, regulates the employment of "young persons" employed in certain occupations, and the Shops Act, 1950 (ss. 24-36) deals generally with the hours of employment of "young persons" in shops, but for the purposes of both these latter Acts a "young person" is a person under eighteen years of age other than a child whose employment is regulated by s. 18 of the 1933 Act—both the 1938 Act and the 1950 Act, however, contain provisions dealing specifically with persons between *sixteen* and eighteen, and s. 27 of the 1950 Act relates specifically to the hours of employment of persons *under* sixteen; furthermore, both Acts contain certain exemptions as regards the employment of young persons whose hours of employment are regulated by or under the Factories Acts, 1937, and 1948, whilst the 1938 Act contains certain exemptions as regards the employment of young persons whose hours of employment are regulated by the Coal Mines Acts and Metalliferous Mines Regulation Acts, and the 1950 Act (s. 68) grants an "option" to apply the provisions of either the 1950 Act or the 1938 Act to the employment of young persons in certain cases.

Of the other enactments prohibiting or restricting the employment of children, it should be sufficient, for our present purpose, merely to mention the Licensing Act, 1953, s. 127, the Betting and Lotteries Act, 1934, s. 15, and the Explosives Act, 1875, ss. 10 and 17.

Finally, in addition to the foregoing statutory prohibitions and restrictions on the employment of children, there is the power of the local education authority under s. 59 of the 1944 Act to prohibit or restrict the employment of any child, being "a registered pupil," who is "employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of the education provided for him."

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Raymond Charles Pullin, 101a, Willes Road, Leamington Spa.

REIGATE BOROUGH

Thomas Langdon, Aplins, Crossland Road, Redhill, Surrey.

BEYOND THE PALE

A controversy, which bids fair to assume the dimensions of an international incident, has arisen between Councillor William Cox, of Nottingham, and Mr. Thomas White, of Indianapolis, in the United States. The latter gentleman (according to the *Manchester Guardian*) is Adviser to the Education Board of his State, and in the course of his duties is engaged in weeding out such school books as are likely to have a corrupting influence upon American youth. Influenced, no doubt, by the crusading activities of Senator McCarthy, he has pronounced a ban upon all literature devoted to Robin Hood. That legendary figure, notorious for his defiance of law and order, and particularly suspect for his avowed aim of taking from the rich and giving to the poor, must obviously have been infected with the taint of Communism. Since it is too late to summon him before the Committee on Un-American Activities, the least that public security demands is the suppression of all record of his nefarious career.

The hero of Sherwood Forest has found a doughty champion, on this side of the Atlantic, in Councillor Cox. Support of the famous outlaw's cause appears all the more chivalrous on the Councillor's part when it is realized that his remote predecessor in office was both the butt and the implacable foe of Robin Hood and His Merry Men. For Councillor Cox is the present Sheriff of Nottingham ; by virtue of his office he, above all men, might have been expected to resent the indignities inflicted by the Men in Green upon his forbear, whose only title to fame rests (it is to be feared) upon his persistent but unsuccessful efforts to lay those attractive rascals by the heels. But no ; local patriotism and sturdy independence are generous enough to forget ancient grudges, and strong enough to defy all foreign witch-hunters and their minions. Transatlantic telephone calls from American journalists have elicited from Councillor Cox a retort which will kindle a spark of pride in every English breast :

> " I told the Americans that we were going to cling to the traditions of Robin Hood and his Band for as long as Nottingham is still Nottingham. I have told them that in this City and County we have Robin Hood hotels, Robin Hood motor-coaches, Robin Hood factories and Robin Hood milk-bars. It is part of our history, known among all English-speaking races."

No wonder that his audience of British Legion delegates cheered the gallant Sheriff to the echo. It is time, they seemed to say, that somebody was outspoken enough to tell these interfering busy-bodies (in their own vernacular) " where they get off."

The forceful attitude of Councillor Cox in face of extreme provocation is in accordance with the best traditions of the maxim *noblesse oblige*. In England the shrievalty is an office of great antiquity; as early as 1300 the statute 28 Edw. I, c. 8, confirmed the existing popular right to elect sheriffs, and their status and duties are still based on a series of statutes beginning with 2 Edw. III, c. 3, passed in 1328. History still records the old system of tenure known as " sheriff-tooth," under which the tenant held on condition of supplying entertainment for this officer at his court. Today the names of candidates are submitted by the Chancellor of the Exchequer and the Judges of the Queen's Bench Division to the Sovereign, who " pricks " the final appointments, in Council, early in every year. Once appointed the sheriff acts as returning officer at parliamentary elections, attends the hearing of election petitions, prepares the panel of jurors and attends the Judges at Assizes. He is responsible for the execution of writs of *fi. fa.* ; and also for seeing that death sentences are carried out. He has also judicial duties in his own Court. He performs these offices with dignity and integrity ; whenever we meet him, in literature or drama, he is found fully worthy of the high honours he holds and the implicit trust reposed in him.

We do not pretend to a detailed acquaintance with the status and duties of the sheriff in the United States Constitution, but Hollywood has made him a figure familiar to all cinema-goers. What we have seen of him in this setting leaves us comparatively unimpressed. Through the medium of the films, he is seen as a hard-riding, hard-drinking, hard-mouthed despot, attired in a grizzled moustache, an unshaven chin, an open shirt and neckerchief, breeches and boots, and carrying at least two revolvers ; he is " quick on the draw " but seldom a " crack shot." This distinction is invariably reserved for his antagonist—the blue-eyed, square-jawed, six-foot-three of American manhood who is out to expose the crooked ways of officialdom, to root out corruption, and to rescue the oppressed—usually in the person of a clinging female—from foreclosure and eviction, death, or worse. Between the two male protagonists it is war to the knife—or, rather, to the rope and the gun ; for in every " western " we have seen the sheriff's determination to hang the hero summarily from the nearest tree is equalled only by the hero's determination to shoot the sheriff as full of holes as a colander. As everybody knows, from the start, which is going to win in the end, little suspense is involved ; but convention requires the audience to sit through some exhilarating gallops over several hundred miles of mountainous country, and the expenditure of some thousands of rounds of ammunition, before Justice Triumphs At Last, the wicked sheriff and his underlings are led forth, snarling, to their doom, and the hero and his girl appear, in a passionate " close-up " stranglehold, to the accompaniment of a heavenly choir of about three hundred voice-power.

Let no one read this as a depreciatory comment on the cultural products of a vital industry ; we have enjoyed " westerns " as much as anybody—until we were about ten years of age. What we desire to emphasize is the gulf between precept and practice ; to call attention to the discrepancy in size between the beam in Mr. White's eye and the mote in ours. Robin Hood's sheriff was admittedly clumsy, a poor tactician, unpopular with the electors, and with a positive talent for landing himself in awkward spots ; yet no one has ever accused him of drunkenness, corruption, or illegality. He was even something of a sportsman, entering into the spirit of the hunt as much for the fun of the thing as from a sense of duty ; and making himself quite conspicuous, in his robes and regalia, as a target for the toxophilic skill of Little John and Friar Tuck, instead of skulking, with a couple of six-shooters, treacherously concealed behind a boulder. As for Robin Hood himself, his defiance of pompous officialdom was at any rate confined to the Forest he ranged ; " live and let live " was his motto, and he would have asked nothing better than that the sheriff should stay and lord it over his City Court and leave Robin to his friends and their innocent sports. We have never read of his riding roughshod through Nottingham, loosing off a gun at everything in sight and creating alarm and despondency among the civil population. Above all, any courting he did was in the strict privacy of his sylvan retreat. Whatever else may be said about Maid Marian, she was a perfect lady, who would never have approved of publicly embracing a man in a technicolor sunset or, for that matter, in any other place where the photographers were about. Vulgar exhibitionism was never known over here before such Un-English Activities began their insidious penetration from the barbarous Western World.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to " The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Education Acts, 1944-53—*Civil debts.*

Under these statutes various sums are payable by parents to the local education authority, *e.g.*, boarding accommodation charges (1944, s. 52), clothing charges (1948, s. 5), and may be recovered summarily as civil debts. Sometimes (*e.g.*, 1944, s. 61) the word " shall " is used instead of " may."

If more than six months have elapsed since the date of demand so as to preclude the laying of complaints in a court of summary jurisdiction, can the amount be recovered by action in the county court, in the absence of any document or documents constituting a contract between the local education authority and the parent? FILO.

Answer.

Whether the Act says that sums may be or that they shall be recoverable as a civil debt, does not seem to affect the doctrine that this method is exclusive, unless Parliament has expressly given an alternative, as it did in ss. 251, 261 of the Public Health Act, 1875 ; s. 293 of the Public Health Act, 1936 and s. 38 (3) of the Water Act, 1945, amongst others. It is therefore unnecessary for purposes of the present query to consider whether the six months' limitation operates in the county court as well as in the magistrates' court. The complications of this question are discussed in *Lumley*, pp. 298 and 2784 of the twelfth edition.

2.—Guardianship of Infants—*Extension or revival of maintenance order.*

I was interested to read P.P. 4 at 117 J.P.N. 711, in which you express the view that a summary order made under the Guardianship of Infants Acts, until a child is sixteen, may be revived under the Magistrates' Courts Act, 1952, after he has attained that age. I am wondering if proviso (*a*) to s. 7 (1) of the Guardianship of Infants Act, 1925, however, might be urged as a reason for saying that this order cannot be revived after it had expired unless the child was physically or mentally incapable of self-support. Perhaps another and safer course to advise would be to tell the parent to apply in the county court or High Court for a fresh order after the child, if capable of self-support, attained the age of sixteen. SOLCAMBRIAN.

Answer.

If an order gave custody to the mother, and ordered maintenance up the age of sixteen, the provision as to custody would presumably remain in force during the whole of the period of infancy and therefore after the provision as to maintenance had lapsed. On that basis it might be argued that the application to revive the periodical payments was not made under the Guardianship of Infants Acts, but under s. 53 of the Magistrates' Courts Act, 1952.

However, as that point may not be free from doubt, we think that, as suggested by our learned correspondent, it might be well to apply to the county court, especially if it is clear that the order as to custody as well as maintenance has expired.

3.—Landlord and Tenant—*Recovery of possession—Proof of title.*

Our applications to the justices for possession orders under the Small Tenements Recovery Act, 1838, are not infrequent and we are constantly faced with a particular problem of general application and shall be obliged for your general observations upon it. While we appreciate that the whole subject is highly technical and that form is perhaps as important as substance, we feel that the strict requirements can be taken altogether too far. Furthermore, the Act itself appears in some respects to be less mandatory than *Stone's* interpretation of it.

We think our problem would appear clearer by means of an example :

A is the freehold owner of a farm with several cottages occupied by service tenants of whom one B has been given proper notice to terminate his employment and to vacate his cottage. A bought his farm from C six months ago and C has now left the district. C took B into his employment about five years ago as a service tenant, deducting 6*s.* a week from his wages. A has served the proper statutory notice, and comes to court and states on oath that when he bought the farm he took over the cottage and the tenant B and in no way altered the terms of the tenancy. He proves, furthermore, the service of the statutory notice, the neglect or refusal of the tenant to give possession and also the requirements of the Rent Acts. The tenant appears personally and does not take any technical point but merely says he cannot find other accommodation. In these circumstances, and bearing in mind that it is a civil case, is it right or necessary for the court, notwithstanding the attitude of the tenant, to insist upon (*a*) proof of the grant of the tenancy by the original landlord C (*b*) production of title deeds as the title of the landlord has accrued since the letting of the premises?

It apears to us to be relevant in this connexion that whereas the Act in s. 1 states merely " It shall be lawful for the landlord to give proof of the holding, the determination of the tenancy and the right to possession and upon proof of service of the notice and the refusal of the tenant. . . ." The appropriate passage in *Stone* implies that proof of the holding and the landlord's title must be given. ARATOR.

Answer.

Stone does not say that the landlord must produce his title deeds, but that he must prove the right by which he claims possession, where he became owner since the tenancy began. This is what the Act itself says. The landlord must also give " proof of the holding " and this whether he or his predecessor was the actual lessor. This we take to mean proof that the relation was in fact that of landlord and tenant, since otherwise the Act is not available. These provisions are for protection of the ex-tenant, and it is for the justices to satisfy themselves that the proof is adequate, even though the ex-tenant is not alive to the point—as he commonly cannot be where, as here, he is not professionally represented. The question thus becomes one, not of what the Act of 1838 requires, but of what the general law of evidence requires. The " holding " can, we think, be evidenced by proof of regular receipt of rent and production of the rent book, since this will normally be taken as proving the relation of landlord and tenant, unless explained away. But the landlord's own right cannot be thus proved, and, since the Act requires it to be proved when he was not the original lessor, the rule of " best evidence " comes into play. This rule has been said to be " inflexible " (13 *Halsbury* 531, end of para. 595), and on this view, when A made the statement you quote (even on oath), the justices may have felt themselves bound to ask for the conveyance from C to him, or for proof that the " best evidence " was not producible, *e.g.*, that there had not been a proper conveyance or that it had been lost. But in *Phipson* the statement about " best evidence " is less positive, and we have reason to believe that (in the sort of case you put to us) the practice of many magistrates' courts is to accept evidence on oath that the owner has become owner since the tenancy began, even though he cannot swear that " best evidence " is unprocurable. If the question you ask had come to us from a justices' clerk, we should have been inclined to advise that, where the justices are in fact satisfied that the landlord's evidence is true, they may act upon it in the interests of speedy and inexpensive justice. But, in advising a landlord's solicitor, we feel bound to counsel " playing safe," seeing that the justices are undoubtedly entitled to demand the " best evidence " of what the Act says shall be proved, even though not bound to do so. Moreover, it is always possible that the ex-tenant may at the last moment instruct a solicitor, who could quite properly make this technical point and thus gain further time for his client.

4.—Licensing—*Gaming on licensed premises—Whist drive.*

I should be obliged for your opinion in the following circumstances :

A publican, who has a large room attached to his premises, and in fact forming part of the licensed premises, is desirous of letting the room to various persons or bodies for the holding of whist drives, and has been advised that he is in order in so doing providing the persons who conduct the whist drive, although charging an entrance fee to all participants, do not purchase any of the prizes from the entrance fees, the prizes being given by an outside party not concerned with the conduct of the drives.

The precedent for such advice appears to be the case of *Lockwood* v. *Cooper*, 67 J.P. 307, but in my view the decision in this case was arrived at by reason of the particular circumstances there prevailing—the participants in the whist drive being members of a properly constituted club who rented the room on a weekly basis, and each of them paid a sum of 1*s.* 6*d.* at the drive to cover the cost of the room and refreshments.

There appear to be several cases which have determined that the playing of any game, whether lawful or unlawful, for money or money's worth on licensed premises is " unlawful gaming," under s. 79 of the Licensing (Consolidation) Act, 1910, and I have some hesitation in accepting the advice given to the licensee in question. NIL NISI.

Answer.

In answering a question similar to this in our vol. 94 (1930) at p. 278, we concluded " The law is extraordinarily difficult and has been made so by the drawing of fine distinctions. The safest thing for a licensed

victualler is not to allow any whist drives at all on his premises." Since we said this there has been no case decided which at all simplifies the construction of s. 79 (1) (*a*) of the Licensing (Consolidation) Act, 1910, and the small verbal change in s. 141 (1) of the Licensing Act, 1953 (in force on November 1, 1953), does not affect the point.

Our correspondent has set out very fairly the points in which the facts in *Lockwood* v. *Cooper* (1903), 67 J.P. 307, are distinguishable from the facts in his case; but, in our opinion, these points are so fine that the decision cited would be binding on a magistrates' court in favour of the defendant in proceedings for "suffering gaming" on licensed premises.

But s. 79 (1) (*b*) of the Act of 1910 (s. 141 (2) of the Act of 1953) relates to a secondary offence of using premises in contravention of the Betting Act, 1953, and this introduces a series of reported decisions culminating in *Bennett* v. *Ewens* (1928), 92 J.P. 120. In this case it was held that a whist drive for prizes (taking the form of vouchers on shops in the district) was a use of premises in contravention of the Betting Act.

5.—Licensing—*Special removal of licence in suspense—Premises to which licence sought to be removed require structural alterations—Suggested procedure.*

We act for a company which was the owner of a fully licensed house which was destroyed by enemy action in or about the year 1942. The licence was granted after 1869, but before 1904. It is now in suspense by virtue of the Finance Act, 1942.

We also act for the owners of an unlicensed hotel within the same licensing district, but in another parish, and it is desired to remove the licence under the special removal procedure to these premises.

The procedure we have in mind is to apply for a transfer of the licence to one of the directors of the existing premises. If this is granted, the application will be followed at the same transfer sessions, by an application to remove the licence to the existing premises. Can you see any objection to this procedure?

Plans of the existing premises will, of course, be submitted to the justices, and they will show the proposed structural alterations, consisting in the main of making a bar and a lounge bar. Naturally, the applicant does not want to carry out this work until the applications have been granted.

Under para. 4 of Part 1 of sch. 6 to the Finance Act, 1942, where the removal of the licence in suspense has been authorized, it shall be deemed to be in force for all purposes from the time of the authorization of the removal. But it will be impossible to supply the public until the alterations have been carried out. How can this difficulty be overcome? NIHILO.

Answer.

There is nothing wrong in law, or, in our opinion, offensive to good administration, if the following steps are taken:

1. Transfer of licence in suspense to director of unlicensed hotel.

2. Application for special removal of licence in suspense to this hotel coupled with a written undertaking given by the licence holder to the licensing justices that no licensed business for which, in their present condition, the premises are not "fit and convenient" (or, if thought fit, no licensed business at all) will be carried on until there are made such structural alterations as will make the premises fit and convenient for the carrying on of an unrestricted licensed trade.

3. Application to licensing justices under s. 134 of the Licensing Act, 1953, for their consent to structural alterations necessary for the purpose.

The three steps recommended will notionally be taken in the order as set out; but it is desirable that the entire scheme shall be presented to the licensing justices in order that they may know that its distinct parts dovetail together.

6.—Local Government Act, 1948—*Entertainment.*

In the last few years Christmas trees, illuminated with coloured lighting, have been placed in prominent positions in towns for a period of a week or a fortnight before Christmas, and they are known as trees of goodwill. This tree is a reminder of the work of an organization which collects and distributes parcels to needy people for Christmas. Carol services are held during the period the tree is in position. A local authority has been approached and has consented to a request from a local organization which organizes the event each year to construct a permanent pit of brickwork in which to stand the tree each year, so as to avoid the necessity of interfering with adjacent property. The pit will be constructed in the highway and will adjoin the existing pavement, but will be so sited as not to interfere with traffic or pedestrians. During the remaining period of the year this pit will have a properly constructed cover.

Will you please advise, (*a*) whether you consider the expenditure which will be incurred in constructing this permanent pit can be said to come within the definition of "entertainment," as provided for under s. 132 (1) of the Local Government Act, 1948, or (*b*) whether it is considered it is a case which should be referred to the Minister of Housing and Local Government for determination under s. 228 (1) of the Local Government Act, 1933. D. INQUIRER.

Answer.

We think it would be altogether too big a strain on language to call this entertainment. We are not asked about the legality of making this pit in the highway, but that question will have to be considered if sanction is being asked under s. 228 (1).

7.—Water Act, 1945, s. 37—*Consolidation of guarantees from same owner.*

My council, who are the water undertakers for the adjoining rural district as well as the borough, have received several requisitions under the Water Act, 1945, s. 37, from the rural district council, who are developing several housing estates in their district. The requisitions for water main extensions deal only with the immediate requirements of the council on each estate and cover perhaps twenty to thirty houses. It is known that the rural district council intend to build more houses on these estates over a number of years on sites adjoining those houses which now require a water supply, and these future houses will require an extension of the water main. Hitherto my council has required a separate undertaking in respect of each requisition for an extension of the main, and if the water rents revenue from the number of houses served by the particular extension does not amount to one-eighth of the expense of providing and laying the necessary main, payment has been required from the rural district council. That council now argue that subsequent requisitions should be amalgamated with previous requisitions for the same estate. This might result in the cessation of payments under earlier undertakings (where there might have been a low density of houses owing to the layout of the estate and consequently small revenue from water supplied) if the subsequent extension of the main were to serve a higher density of houses with a corresponding higher water revenue which would off-set the payment under the earlier requisition. It is noted that my council is not obliged to obtain an undertaking—the proviso to s. 37 says "may"—and I should be glad of your opinion as to whether my council would be in order to amalgamate the various undertakings for each estate and treat the estate as a whole or should they insist on treating each requisition and undertaking separately, taking payment under some and nothing under others, depending on the amount of revenue from each section of main laid? PANAQ.

Answer.

In our opinion, there would be no objection to the proposed arrangement.

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